

Attachment 7.4– Supporting Documents

Economic Analysis – Water Supply Costs and Benefits

Project D – Root Creek Water District, In-Lieu Groundwater Recharge

Madera Region – IRWM Implementation Grant Application

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Attachment 7.4, Surface Water Contracts

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**AGREEMENT CONCERNING AGRICULTURAL,
MUNICIPAL AND INDUSTRIAL WATER
USE WITHIN ROOT CREEK WATER DISTRICT**

This Agreement Concerning Agricultural, Municipal and Industrial Water Use Within Root Creek Water District ("Agreement") is entered into this 30th day of December, 1999, by and among FRIANT WATER USERS AUTHORITY ("Authority"), MADERA IRRIGATION DISTRICT ("MID"), CHOWCHILLA WATER DISTRICT ("CWD"), and ROOT CREEK WATER DISTRICT ("RCWD") (collectively, the "District Parties"). This Agreement shall further be between the District Parties and holding contract owners (as defined below) who sign this Agreement, and all landowners or developers who subsequently sign the Consents to be Bound by this Agreement as set out below. For the purposes of this Agreement, "Parties" shall refer collectively to the District Parties, any holding contract owner who signs this Agreement, and any others who are made Parties by agreement.

RECITALS:

A. The Authority represents 25 water and irrigation districts, including CWD and MID (the "Member Agencies"), who each contract with the United States Department of Interior, Bureau of Reclamation (the "Bureau") for San Joaquin River water impounded by Friant Dam and delivered through the Madera and the Friant-Kern Canals. The water and irrigation districts and municipalities who have contracts to obtain water deliveries from the Friant-Kern and Madera Canals, including all Member Agencies and all additional contractors, shall be referred to collectively as the "Friant Contractors."

B. MID and CWD each contract with the Bureau for San Joaquin River water impounded by Friant Dam and delivered through the Madera Canal.

C. RCWD is a new water district serving a portion of Southeastern Madera County currently consisting of 9,234 acres. A legal description of RCWD is attached as Exhibit A.

D. The "Holding Contract Owners" are certain landowners within RCWD who own certain properties that are subject to contracts with the United States acting through the Bureau (the "Holding Contracts"). The Holding Contracts provide for the property to obtain water directly from the main stem of the San Joaquin River downstream from Friant Dam. The signatories to this Agreement disagree with each other as to the scope of that right, including the amount of water which may be utilized under each Holding Contract, where that water may be utilized, and the purposes for which such water may be utilized.

E. The Holding Contracts within the RCWD Boundaries are numbers 65, 67, 69, and 74. The RCWD boundaries also include a claimed riparian parcel that is described in the Bureau's offer for Holding Contract number 72. The land included within RCWD and described in those four Holding Contracts and the claimed riparian parcel consists of a combined total of 2,211 acres. The Parties acknowledge that there is a dispute whether all the land described in the Holding Contracts is entitled to water pursuant to the terms of the Holding Contracts. For the purposes of this Agreement, the term "Holding Contracts" shall be used to mean only the four signed holding contracts and the claimed riparian parcel located within the current boundaries of RCWD.

F. RCWD desires to obtain additional surface water supplies to supplement the surface water and groundwater already available within RCWD and to correct the current groundwater overdraft within RCWD by utilizing direct and in lieu recharge programs. For the purposes of this Agreement, direct recharge means the application of water to land (either in spreading basins or intentional over irrigation) to provide recharge by direct

percolation. For the purposes of this Agreement, in lieu recharge means reducing groundwater pumping by providing surface water supplies to users that would otherwise pump groundwater. The amount of effective recharge is the amount of water available for extraction in the basin pursuant to Article II, Paragraph 5 of this Agreement

G. The "Gateway Developers" who are concurrently signing a Consent to be Bound by this Agreement desire to develop approximately 2,400 acres within RCWD to residential, commercial and industrial uses according to the terms of the Gateway Village plan submitted to the County of Madera (the "County"). The Gateway Developers intend to rely entirely on groundwater delivered by RCWD to supply their development ("M&I") water needs. To ensure a long-term, high-quality groundwater supply for the Village of Gateway, the Gateway Developers desire, through RCWD, to begin a program in cooperation with the District Parties and the County to address the existing groundwater overdraft in Southeastern Madera County.

H. The Parties desire to enter into this Agreement due to their mutual interest in the reasonable use and allocation of the waters of the San Joaquin River and/or preservation of the groundwater supply within the County, to fully resolve the current and any potential disputes among the Parties as to the scope of the rights to water under the Holding Contracts, and to comply with the Madera County General Plan Policies concerning water supply and delivery. The Parties believe that the creation of RCWD and the potential for municipal and industrial development in Southeastern Madera County creates both a need and an opportunity to comprehensively utilize available water resources for the mutual benefit of all Parties. It is the intent of the Parties that neither the development of RCWD's water supply nor conversion of lands within RCWD to municipal and industrial uses will have any adverse effects on established users of groundwater in

Southeastern Madera County, on established users of San Joaquin River water, or on the ability of any entity to meet current or future environmental requirements pertaining to San Joaquin River water.

I. Although the Authority cannot bind its members to this Agreement, it has concluded that this Agreement affords the requisite assurances to Friant Contractors that the use of water within RCWD will not adversely impact the water supply available from the Friant Division.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I

APPLICATION OF THIS AGREEMENT

1. Root Creek Water District. This Agreement shall apply to the operation of Root Creek Water District to obtain water for groundwater recharge and direct surface deliveries for agricultural and Municipal and Industrial ("M&I") uses. This Agreement shall apply to all water rights, water service or other transactions exercised by RCWD in its own name or on behalf of others. This Agreement shall not, however, apply to the individual exercise of any existing or future water rights by any Holding Contract Owners who do not sign this Agreement within RCWD solely for the account of those individual owners. Furthermore, any rights exercised by RCWD in delivering water to any landowner or water user within RCWD, including exercise of any landowner's overlying rights, whether in its own name or on behalf of others, shall be used exclusively by RCWD, and they shall not be concurrently exercised by any other owner of that right.

2. Holding Contract Owners. Any Holding Contract Owner that desires to avail itself of the settlement of potential disputes concerning the validity and scope of the rights granted in the Holding Contracts, all as set out in Article IV below, shall sign this

Agreement. As to non-signing Holding Contract Owners and those holding contracts outside RCWD, the Parties will retain the right to assert any claim, action or objection concerning the use of San Joaquin River water under such contracts.

3. Municipal and Industrial Users. For the purposes of this Agreement, an "M&I user" shall mean any water user that includes more than four residential units or any office or industrial facility. On farm labor camps and farmsteads for people who own or work in commercial agricultural production and existing agricultural office, processing or other support facilities (and repairs and replacement of the same approximate size and scope) shall not be included within the definition of M&I user. However, agricultural processing or other support facilities constructed after the date of this Agreement shall be included in such definition. The Parties acknowledge that RCWD is agreeing to the terms of this Agreement as a condition of providing M&I water service. Therefore, RCWD agrees that any M&I user within RCWD that desires to obtain M&I water service from RCWD, either directly or through participation in RCWD's groundwater recharge program shall be required to enter into an M&I Consent to be Bound by this Agreement substantially in the form attached as Exhibit B.

4. Effect of Consents. A Consent to be Bound shall not be revocable and shall modify the contract or other rights subject to that Consent so long as this Agreement is in effect.

ARTICLE II

PURPOSE AND COMMITMENTS OF ROOT CREEK WATER DISTRICT

1. Creation of RCWD/Purpose of Agreement. The District Parties, the County and others supported the creation and development of RCWD as the District

Parties and the County will benefit from RCWD comprehensively addressing the water supply needs within RCWD.

2. Increased Water Supply Goal. The District Parties agree to enter into this Agreement to assist RCWD in providing a water supply within its boundaries consistent with the District Parties' ongoing efforts to improve the total beneficially-useable water supply on the east side of the San Joaquin Valley and Southeastern Madera County. RCWD agrees to manage the water available to it from all existing sources and to obtain new water sources to achieve the goal of increasing the water supply that can be beneficially used within RCWD and, as a result, in Southeastern Madera County. In particular, RCWD shall stabilize and improve groundwater levels within RCWD boundaries and provide a firm annual water supply to support urbanization planned within RCWD.

3. No Adverse Impact on Existing Water Users. RCWD agrees that the operations of RCWD in providing M&I water service as set out in this Agreement shall be achieved with no long-term adverse impacts (as defined in Article II Section 6 below) on existing groundwater and surface water users in Madera County or on those other water users who receive water from the Friant system. Diversion of water by RCWD for use within RCWD shall not result in degradation of the quality or reduction of the quantity of water from the existing surface or groundwater sources currently utilized by (1) water users in the County, (2) Friant Contractors, or (3) downstream users of San Joaquin River water. RCWD also acknowledges that its water use may be impacted by current or future downstream environmental requirements.

4. Conjunctive Use Program. The Parties acknowledge that a major purpose of RCWD is enhancement of the groundwater resource within the RCWD

boundaries. Therefore, all Parties acknowledge that RCWD plans to bank surface water in the underground within and up and down gradient of RCWD to the maximum extent possible considering the constraints of the local aquifer and the ability to deliver water to RCWD. RCWD and landowners within RCWD are currently engaged in feasibility studies to develop an M&I conjunctive use program incorporating all of the following to the extent reasonably possible: reuse and reclamation of return flows, capture and groundwater recharge of currently unused local storm water flows, capture and groundwater recharge with San Joaquin River flood flows when available, groundwater recharge with and/or direct use of imported surface water, and off-site banking of surface water in the underground within Madera County or the Friant Service area. RCWD agrees, immediately following an agreement on conveyance charges with MID, to implement an aggressive, conjunctive use program within RCWD designed, in accordance with the feasibility study results, to maximize the water that is available for beneficial use within the RCWD boundaries, provided that such banking and subsequent groundwater extraction will not adversely affect any parties to this Agreement or adjacent landowners.

5. Groundwater Performance Criteria Applicable to RCWD. The RCWD groundwater management plan (the "Plan") indicates that the current groundwater usage within RCWD is contributing to groundwater overdraft by approximately 2,500 acre feet per year. To ensure a stable, reliable high-quality water supply within RCWD for agricultural and M&I use, RCWD agrees reduce to zero its contribution to groundwater overdraft within five years following completion of a facility to convey surface water to RCWD from MID lateral 6.2 as provided below. RCWD agrees to maintain such zero contribution to groundwater overdraft, on average, thereafter. The Parties acknowledge

that the conjunctive use program planned by RCWD intends to recharge more than is used in wet years and to extract more than is recharged in dry years. The commitment being made by all Parties is to assist RCWD in obtaining enough water in wet years to eliminate the RCWD contribution to groundwater overdraft assuming hydrologic conditions consistent with the period 1975 through 1995. Eliminating the RCWD contribution to groundwater overdraft shall be achieved by any combination of consumptive water use reductions that occur within RCWD (as compared to the consumptive use within RCWD as of the date of this Agreement), intentional groundwater recharge, or in lieu recharge from supplying surface water to agricultural uses within RCWD that currently rely on groundwater. The RCWD groundwater overdraft elimination program shall only be credited with the extractable portion of intentionally-recharged water based upon reasonable recharge/extraction ratios to be determined by RCWD based on applicable data and consultation with MID and CWD. The RCWD groundwater overdraft elimination program must assume that all Holding Contract water is currently utilized and assume that all Holding Contract supplies within RCWD are subject to reduction pursuant to this Agreement. All surface water imported by RCWD and accounted as balancing the water usage within RCWD shall be either Unused Flood Flows (defined below) or new water obtained for RCWD pursuant to this Agreement or otherwise. The Parties acknowledge that bringing RCWD's water usage into balance will not alone stabilize groundwater levels within RCWD as there are many significant contributors to the current overdraft in Southeastern Madera County.

6. Definition of Long-Term Adverse Impact and Unused Flood Flows.

For the purposes of this Agreement, a "long-term adverse effect on an existing water user"

shall be a reduction in surface water availability in any year, or a decline in groundwater levels that persists for five years.

For the purposes of this Agreement, "Unused Flood Flows" shall be flows of the San Joaquin River that are not diverted by any other Friant Contractors and would not otherwise be diverted by downstream users pursuant to their rights thereto or for satisfying current or future environmental requirements pertaining to the San Joaquin River.

ARTICLE III

SURFACE WATER SUPPLIES FOR RCWD

1. San Joaquin River Water Available to RCWD. In periods of high runoff on the San Joaquin River, water is sometimes flood released from Friant Dam because no Friant Contractors desire to take delivery of the water as it is available. The flood released water has the potential to be directly diverted from the San Joaquin River or delivered through the Madera Canal and utilized within RCWD. When flood releases are projected to occur, the Authority agrees to notify RCWD that water is potentially available at the same time notice is provided to all Friant Contractors. When Friant Contractors do not request delivery of all available San Joaquin River floodwater, the Authority, MID and CWD will use their best efforts to assist RCWD to obtain those Unused Flood Flows either through Bureau 215 water purchases, temporary Class 2 contracts, water transfers or other means at the lowest prevailing rate (including CVPIA Restoration Fund charges when applicable) available for water districts. The District Parties agree their intention is that no payments will be made to any Friant Contractors for Unused Flood Flows other than reimbursement for payments made by a contractor to the Bureau, the Authority or the Madera-Chowchilla Water and Power Authority for

that water or MID delivery charges for water delivered through its canal system to be negotiated between MID and RCWD in accordance with Paragraph 4 of Article V. The Parties acknowledge that certain regulatory approvals may be required to allow RCWD to obtain Unused Flood Flows, and the District Parties shall cooperate with RCWD in obtaining any such approvals. To benefit both RCWD and water users in Madera County generally, the Parties further agree to facilitate water transfers from outside Madera County to RCWD or other water purveying entities. The Parties agree that RCWD shall pay all delivery costs for water delivered to RCWD or for its benefit, including reasonable temporary regulation, storage or wheeling charges. The Parties agree that they shall jointly pursue all approvals necessary for delivery of such water to RCWD. The cost of those approvals shall be solely borne by RCWD. The Parties further agree to facilitate RCWD's efforts to obtain water transfers from Central Valley Project ("CVP") water service or exchange contractors pursuant to the Central Valley Project Improvement Act, or from Madera County or other M&I contractors who are not parties to this Agreement.

2. Purchase of Surface Water/First Option. RCWD intends to purchase additional surface water to supplement San Joaquin River water made available pursuant to the terms of this Agreement and supplies available within the boundaries of RCWD. RCWD agrees that before purchasing supplemental water from other sources, it shall satisfy its needs from supplies available for sale by MID, to the extent and on the same terms and conditions that MID is willing to sell such water to parties other than Friant Contractors or other CVP contractors. In consideration of RCWD's commitment to look first to MID for purchase of supplemental water, MID hereby agrees that RCWD shall have the first right to purchase any MID surface water that is available for sale outside its district

(except water sold to other Friant Contractors or other CVP contractors) to the extent and on the same terms and conditions that MID is willing to sell such water to parties other than Friant Contractors or other CVP contractors; provided, that RCWD's right pursuant to this paragraph shall not be interpreted as senior to or otherwise interfering with MID's ability to exchange water with other Friant Contractors to assist in delivery, timing and water management of MID water supplies. Nothing contained in this Agreement shall require MID to take any actions contrary to its bylaws or Friant Division operating policies or current water management arrangements.

3. Other Surface Water Supplies. MID agrees that RCWD shall be free to purchase surface water supplies from other members of the Authority or other sources so long as RCWD honors its commitment to purchase the MID water to the extent that it is reasonably available. The Parties acknowledge that RCWD desires to acquire long-term water supplies that originate outside Madera County. RCWD may seek to exchange any acquired supplies to augment supplies originating within Madera County. The Parties agree that (subject to the terms and conditions applicable to each supply) RCWD may utilize any long-term water supplies owned by RCWD or owned by any landowner (other than non-signing Holding Contract Owners) within RCWD, providing such use does not violate the terms and conditions of this Agreement, without violating RCWD's obligation to MID for surface water purchases.

4. Use of San Joaquin River for Conveyance. The District Parties agree that the San Joaquin River channel is a poor conveyance option due to the channel losses and other considerations and all District Parties prefer to utilize other options for delivery of water supplies to RCWD. The District Parties also acknowledge that the capacity of other conveyance options is limited and during some months no other options to convey

water to RCWD may be available. So long as this Agreement is in effect, all Parties agree to negotiate in good faith if RCWD believes it is necessary to utilize the San Joaquin River Channel for conveyance of water or to add or change points of diversion to facilitate the purposes of this Agreement.

ARTICLE IV

HOLDING CONTRACT SETTLEMENT

1. Settlement of Disputed Claims. The Parties agree that the purpose of this Article is to settle competing claims made by the Parties including, but not necessarily limited to, the following: (1) that the purposes of use of water under the Holding Contracts is limited to irrigation and domestic uses; (2) that the Holding Contracts describe land that is not entitled to water, and (3) that all land described in the Holding Contracts has a first right to all the water it can beneficially and reasonably use every year regardless of the total San Joaquin River flow. All Parties agree that litigation by a party interested in the flows of the San Joaquin River could resolve the disagreements among the Parties by defining the rights and obligations under the Holding Contracts. Because the Parties desire to resolve those disagreements without litigation and because all of the Parties to this Agreement have an interest in the flow of water in the San Joaquin River and may assert that they have a cause of action to enforce certain terms of the Holding Contracts, they have agreed to enter into this Agreement to specify an agreed upon water diversion schedule and other terms pursuant to the Holding Contracts within RCWD owned by Holding Contract Owners executing this Agreement. The intent of the Parties is that the agreements in this Article (that will sometimes be referred to as the "Holding Contract Settlement") shall survive any suit by any third party regardless of outcome. That is, the Parties intend this to be

a final and enforceable settlement of all claims by the Parties concerning any Holding Contract that is utilized by RCWD in accordance with this Agreement.

2. No Amendment/Agreement Not to Assert Claims. The Parties acknowledge that they do not have the right to amend or modify, and this Agreement will not be interpreted as amending or modifying, the terms of any Holding Contract, including any Holding Contract held by a Party. Based on the commitments of RCWD contained in this Agreement, all Parties hereby agree that, without waiving or modifying any rights that they may have under or pertaining to any Holding Contract, they shall not assert those rights with respect to any Holding Contract that is subject to this Agreement, and is managed by RCWD pursuant to the terms of this Agreement. (For the purposes of this paragraph only, the term "Agreed Holding Contract" shall refer to such a contract.) So long as (i) this Agreement is in full force and effect, (ii) all Agreed Holding Contract water delivered within RCWD is put to reasonable and beneficial use under California law, and (iii) RCWD and the owner of each Agreed Holding Contract comply with the terms of this Article and all other provisions of this Agreement, then (a) the District Parties and those Holding Contract Owners signing this Agreement agree that they shall not object to the management by RCWD of the water received under any Agreed Holding Contract or use of such Agreed Holding Contract water by RCWD for municipal and industrial purposes, (b) they shall not bring any action challenging such use on any basis, (c) they shall not cooperate in or assist in any action by any other party to challenge such use as being in violation of the Agreed Holding Contract, as creating adverse impacts different from those created by other users of water diverted at Friant Dam, or as failing to qualify as a reasonable and beneficial use of water merely because the water is used for municipal and industrial purposes, and (d)

they shall not assert that diversions, pursuant to an Agreed Holding Contract in accordance with the Holding Contract Delivery Schedule set out in Article IV, Paragraph 8, in and of themselves create adverse impacts on any existing water user. The Parties further do not waive, but agree not to assert while this Agreement is in full force and effect and all provisions of this Agreement are satisfied, any claims or assertions concerning the character of the lands described in the Agreed Holding Contracts as riparian or otherwise and assertions that significant portions of the land described in the Agreed Holding Contracts may not be entitled to water deliveries under such Agreed Holding Contracts. The Parties agree that during the continuance of a material breach of this Agreement by RCWD or an owner of an Agreed Holding Contract, they shall not be obligated by the terms of this paragraph. The Parties acknowledge that their agreement not to object, bring an action or assert any claim concerning RCWD's use of Agreed Holding Contract water supplies in accordance with the terms and conditions of this settlement shall not be construed as their opinion that all necessary legal authorization has been obtained for the usage and terms contemplated by this Agreement.

3. Holding Contracts Within RCWD. There are four privately-owned Holding Contracts numbered 65, 67, 69 and 74 within the RCWD service area. In addition, Contract 72 was offered by the Bureau but has not yet been signed. Upon the execution of this Agreement by the owner of the claimed riparian parcel described by Holding Contract 72, such owner shall use its best efforts to cause the Bureau to execute and deliver Holding Contract 72 to such owner, whereupon such owner shall also execute it. Upon its full execution, Holding Contract 72 shall be deemed to be a Holding Contract for purposes of this Agreement. Until such Holding Contract 72 has

been fully executed, the claimed riparian parcel described by offered Holding Contract 72 shall be treated the same as the land described in the Holding Contracts within RCWD that have been executed.

4. Agricultural Use of Holding Contract Water. Certain of the Holding Contract Owners currently divert water from the San Joaquin for agricultural use within the boundaries specified in those Holding Contracts. Agricultural irrigation may also occur in the future on other land within the boundaries specified in these Holding Contracts. So long as a particular Holding Contract (including groundwater supplies extracted from the lands described in that Holding Contract) has not been used to supply water for M&I or RCWD use, is not subject to the terms of this Agreement, and/or it has not been put under management of RCWD for district purposes, then, the Parties agree that the provisions of this Agreement shall not apply, and RCWD shall not receive any credit against its overdraft elimination commitment from any deep percolation resulting from such Holding Contract irrigation water supplies.

5. Management of Holding Contracts By RCWD for District Use. RCWD desires to utilize water from the Holding Contracts within RCWD as part of its total water supply strategy to ensure that reliable water service is available for the expected M&I development within RCWD without adverse impacts. RCWD shall only utilize water from a Holding Contract if the Holding Contract Owner signs this Agreement and that Contract is managed by RCWD subject to an exclusive management agreement with that Holding Contract Owner. The exclusive management contract shall provide that the Holding Contract Owner shall not retain any right to independently divert water pursuant to a Holding Contract managed by RCWD. RCWD and any Holding Contract Owners signing this Agreement agree that all

deliveries pursuant to any Holding Contract RCWD manages will be strictly controlled according to the terms of this Agreement. No water from any Holding Contract whose owner has executed this Agreement shall be used for M&I purposes unless the Holding Contract is managed by RCWD in accordance with this Section 5.

6. Full Disclosure of Water Supplies. RCWD shall meter its water diversions and make its water supply and the sources of those waters, including any water used for groundwater recharge, public record so that any of the other parties to this Agreement can confirm that the amount of water obtained pursuant to Holding Contract rights and the use of that water remains in accord with the limitations specified in this Agreement. RCWD shall furnish to the District Parties on a quarterly basis a summary of certified diversion metering records, intentional groundwater recharge, in lieu recharge, usage within RCWD by type, and other pertinent information on all RCWD water supplies and all water usage within RCWD. The District Parties shall be given access to properties within RCWD to verify diversions, recharge and water uses.

7. Agreement Not to Object to Changes in Place of Use and Point of Diversion Under the Holding Contracts. The terms of the Holding Contracts do not specify a quantitative limit on the amount of water that can be diverted pursuant to each contract. The terms of the Holding Contracts only specify a limited area for diversion and limit use of water to the land described in each contract. The Parties agree that the imprecise approach to diversions specified in the Holding Contracts makes planning difficult for the Authority, MID and CWD and leads to the dispute the Parties desire to resolve with this Agreement. The restrictions on diversion points and place of use of Holding Contract water makes water budgeting and distribution within RCWD for M&I uses unfeasible. Strictly for Holding Contracts whose owners have executed this

Agreement the Parties hereby agree, without waiving any rights or claims, and subject to Article III, Paragraph 4 not to assert point of diversion, purpose of use and place of use restrictions under the Holding Contracts in exchange for the commitments of the Parties under this Agreement and the schedule of diversions pursuant to each Holding Contract set out in the following paragraph.

8. Holding Contract Diversion Schedule. RCWD and the signing Holding Contract Owners voluntarily agree to limit their diversion of surface San Joaquin River water pursuant to each Holding Contract when such water or any ground water underlying such holding Contract land is first used for M & I purposes as follows:

a. In a water year with total projected San Joaquin River deliveries greater than 1,466,000 acre feet (above average deliveries), 2.0 acre feet per acre described in each Holding Contract managed by RCWD.

b. In a water year with total projected San Joaquin River deliveries of 1,466,000 acre feet or less (below average deliveries) diversion of Holding Contract water by RCWD shall be reduced to 1.5 acre-feet per acre described in each Holding Contract managed by RCWD.

c. In a water year with total projected San Joaquin River deliveries of 800,000 acre feet or less (critically dry) diversion of Holding Contract water by RCWD shall be reduced to 0.5 acre-feet per acre described in each Holding Contract managed by RCWD; and

d. There shall be no limitation on RCWD use of flood flows and any RCWD flood flow diversions shall not be considered Holding Contract water counted against the applicable annual limitations.

For the purpose of measuring diversions pursuant to this paragraph, RCWD shall be subject to the same water year forecasting and allocation schedule applicable to water service contractors within the Friant Division as that system operates and is amended from time to time. The Parties agree that they shall be bound by this water diversion formula only for so long as this Agreement is in effect.

9. Holding Contract Diversion Points. RCWD's use of Holding Contract water for M&I use requires that it have coordinated extraction and distribution facilities to utilize in its district wide supply. RCWD intends to extract Holding Contract water, for direct and in lieu groundwater recharge, M&I and other district purposes only, from any point along the main stem or underflow of the San Joaquin River accessible to RCWD. The remaining Parties agree that they, while not waiving any rights or claims, will not object to any such diversion by RCWD as long as RCWD and the participating Holding Contract Owners comply with both the quantity and area of use limitations specified by this Agreement, and other commitments in this Agreement.

10. Holding Contract Water Distribution. RCWD agrees that, subject to Bureau approval if required, any Holding Contract water obtained by RCWD will be introduced into the general RCWD distribution system with all other RCWD water and will be utilized for M&I uses through direct and in lieu groundwater recharge on lands throughout RCWD but will not be exported to lands that are outside RCWD except to the extent that occurs as an incidental part of an integrated regional groundwater recharge program in the RCWD area. The remaining Parties agree, without waiving any rights or claims, that they will not object to the expansion of place of use to all of RCWD of water diverted pursuant to Holding Contracts subject to this Agreement so

long as RCWD and the participating Holding Contract Owners comply with the quantity and place of use limitations specified by this Agreement.

11. Holding Contract Modification. The Parties agree to support RCWD in requesting that the Bureau of Reclamation modify any Holding Contract obtained by RCWD whose owner has executed this Agreement, provided both the quantity and area of use limitations specified by Article IV of this Agreement are incorporated into such modified Holding Contract. The owners of Holding Contracts executing this Agreement shall use their good faith best efforts to assist RCWD in obtaining such modifications. Any proposed modification of a Holding Contract shall be consistent with this Agreement and the Parties shall be provided an opportunity to review the proposed Holding Contract modification to ensure compliance with this Agreement. Following execution of a Holding Contract modification that incorporates the terms of this Holding Contract Settlement, all Parties waive all prior claims that they may have concerning that Holding Contract.

12. Definition of Holding Contract Settlement. Whenever the term "Holding Contract Settlement" is used in this Agreement, or in any consent to this Agreement it shall refer to all terms and conditions of this Article.

ARTICLE V

IMPLEMENTING AGREEMENTS

1. General. The Parties agree that additional agreements will be necessary to fully implement all aspects of this Agreement. The Parties agree to negotiate in good faith to reach all necessary subsequent agreements, including, but not limited to, those specified in this Article V.

2. Underground Banking In MID and CWD. The Parties acknowledge that MID and CWD may have excellent conditions within their boundaries for banking surface water in the underground. RCWD, MID and CWD agree to consider groundwater banking and recovery arrangements within MID and CWD. The Parties desire that arrangements between RCWD and MID and/or CWD be the preferred off-site banking utilized by RCWD within Madera County. RCWD agrees not to bank water elsewhere in Madera County unless approved by MID and CWD, but RCWD shall have the freedom to utilize the ability to enhance delivery timing or other advantages that other off-site banking opportunities may offer. Notwithstanding anything else in this Agreement, the Parties agree that RCWD shall not be required to negotiate or enter into any other banking or water storage agreements with any other District until RCWD fully develops the groundwater banking potential in and around RCWD.

3. Additional Underground Banking. To the extent that RCWD desires to bank additional surface water in the underground to provide for a firm annual agricultural and M&I supply, to maximize available surface water delivery options or for other purposes, RCWD and the Authority agree to work together and with Friant Contractors to develop underground banking and exchange programs within districts constituting the Authority. The availability, terms and conditions for any programs will be negotiated by the particular parties.

4. Conveyance Facility. The Parties acknowledge that RCWD currently does not have adequate facilities for delivery of surface water to meet its objectives. The most convenient way to deliver surface water to RCWD is through the Madera Canal and MID lateral 6.2. MID and RCWD shall negotiate in good faith on an agreement to be executed 18 months from the effective date of this Agreement to

obtain a replacement easement and construct a facility to convey water to RCWD from MID's Lateral 6.2. The facility will be financed pursuant to the terms of such agreement.

5. Warren Act Water Conveyance Charges. RCWD and MID and the Madera-Chowchilla Water and Power Authority shall negotiate in good faith to reach agreement on conveyance charges applicable to water delivered to RCWD through the Madera Canal and the MID lateral system. The availability of conveyance capacity, terms and conditions will be negotiated by the affected Parties. The conveyance rates shall not include any component for use of the easement or the pipeline connecting the existing MID laterals to the RCWD facilities, as RCWD will pay its pro rata capital operation and maintenance costs pursuant to separate facilities agreements. MID and the Madera-Chowchilla Power Authority agree to sign an agreement with RCWD on conveyance charges on or before 18 months from the effective date of this Agreement, subject to compliance with applicable environmental laws.

6. Effect of Failure to Reach Agreement. Failure to reach agreement on any of the implementing agreements shall not void or in any way modify, suspend or diminish the settlement concerning Holding Contracts or the commitments of the Parties to assist RCWD in obtaining surface water supplies. Should MID and RCWD fail to reach agreement on conveyance facilities however, RCWD shall be released from any obligation to utilize groundwater banking within MID or to purchase surface water from MID, and RCWD's obligation to eliminate its contribution to groundwater overdraft shall be deferred as provided in Article II Section 5.

ARTICLE VI

GENERAL PROVISIONS

1. Participation Within Madera County Groundwater Control (AB 3030 Plan). RCWD hereby agrees to participate with Madera County and the other interested water purveyors in Madera County to develop a groundwater management program for Southeastern Madera County. In making this agreement, RCWD acknowledges that the groundwater levels within the RCWD boundaries have been in a gradual state of decline over many years and that a fundamental purpose of RCWD is, to the extent reasonably feasible, to restore the groundwater within RCWD to a level consistent with overall water needs within RCWD and Southeastern Madera County.
2. Limitation on Water Transfers From RCWD. RCWD voluntarily agrees that as consideration for the cooperation of the other Parties in facilitating RCWD's acquisition of surface and Holding Contract water, RCWD shall restrict the use of all water acquired by it to the RCWD boundaries as they exist from time to time. To accomplish effective groundwater recharge, however, RCWD may utilize facilities immediately up or down gradient from RCWD boundaries. The Parties agree however that this restriction shall not be interpreted to prevent water transfers and exchanges by RCWD in the ordinary course of managing water to ensure appropriate timing of deliveries and a reliable and consistent water supply.
3. Rules, Regulations and Rights of Non-Parties. The Parties acknowledge that this Agreement only binds the Parties and their successors and assigns. RCWD agrees to comply at its own expense with all applicable rules and regulations of the United States acting through the Department of the Interior, Bureau of Reclamation, the California State Water Resources Control Board and any other

applicable regulatory agencies. RCWD further acknowledges that the signatories are not making any representations concerning and cannot bind any other claimants to waters of the San Joaquin River. RCWD takes any and all risks that other claimants may object to the terms of this Agreement. Furthermore this Agreement shall not be interpreted as excepting RCWD from any environmental review process applicable to any specific proposal made by RCWD and shall not be interpreted as limiting the participation of any other Party in that review.

4. Enforcement of Agreement. If default shall be made by any party in any provision contained in this Agreement, such default shall not excuse the other Parties from fulfilling their obligations under the Agreement and such other Parties shall continue to be liable for the performance of all obligations herein contained. The Parties hereby declare that this Agreement is entered into for the benefit of all Parties to the Agreement and each Party shall have the right to enforce this Agreement by whatever lawful means that Party deems appropriate all of the obligations of each Party hereunder.

5. Recording. This Agreement shall be recorded in the Official Records of Madera County to bind the land within RCWD as described in Exhibit A to the extent legally permissible and to make an official record of the agreement of the Parties.

6. Best Efforts/No Guaranty. When this Agreement requires any party to assist, cooperate, negotiate, facilitate or otherwise participate in a process to obtain a mutually desired result described in this Agreement, all that is required of that party is that they exert their reasonable and appropriate best efforts in relation to the matter described in this Agreement. In agreeing to cooperate, assist, or negotiate in good

faith, no party is endeavoring to guaranty any result described or sought by this Agreement.

7. Waste and Unreasonable Use. Nothing in this Agreement is intended or shall be construed as condoning any waste or unreasonable use of water. All Parties specifically retain their rights and responsibilities as water purveyors to ensure that water within their jurisdiction is put to reasonable and beneficial use.

8. Specific Performance. The Parties acknowledge that both groundwater and surface water are unique and irreplaceable resources. Therefore, monetary compensation or other remedies at law will not be sufficient to cure a breach of this Agreement. The Parties agree that in addition to all remedies at law, specific performance shall be available to all Parties to enforce the terms of this Agreement.

9. Costs. The costs and expenses incurred for the preparation of this Agreement shall be paid by each party.

10. Time. Time is of the essence of this Agreement and each and all of its provisions.

11. Effect of Headings. The subject headings of the articles and paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

12. Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all of the Parties hereto.

13. Waiver. Waiver of any breach of this Agreement by any party hereto shall not constitute a continuing waiver or a waiver of any breach of the same or another provision of this Agreement.

14. Counterparts. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, all of which together shall constitute one and the same instrument.

15. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of the Parties hereto, and shall bind and apply to all property subsequently annexed to RCWD or any other Party and shall be recorded against subsequent annexed land.

16. Survival of Agreement. The provisions of this Agreement and the covenants and conditions contained herein shall be continuous and shall survive any annexation or other change in the boundaries of RCWD and any transfer of ownership of any Holding Contract property or other property within RCWD.

17. Attorneys' Fees. Should any litigation be commenced between the Parties hereto concerning this Agreement, or the rights and duties of any party in relation thereto, the party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to recover from the losing party a reasonable sum for its attorneys' and paraprofessionals' fees and costs in such litigation, or any other separate action brought for that purpose.

18. Governing Law. This Agreement shall be governed by the laws of the State of California.

19. Construction. All words used in this Agreement shall be construed to include the plural as well as the singular number and vice versa. Words used herein

in the present tense shall include the future as well as the present, and words used in the masculine gender shall include the feminine and neuter genders.

20. Parties in Interest. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies on any persons other than the Parties hereto and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third person any right of subrogation or action over and against any party to this Agreement.

21. Notices. All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service, if served personally on the person to whom notice is to be given, or on the third (3rd) day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

To Richard M. Moss, General Manager, at:
Friant Water Users Authority
854 North Harvard Avenue
Lindsay, CA 93247

To Stephen H. Ottemoeller, General Manager, at:
Madera Irrigation District
12152 Road 281/4
Madera, CA 93637-9199

To Douglas G. Welch, General Manager, at:
Chowchilla Water District
P.O. Box 905
Chowchilla, CA 93610

To Christopher L. Campbell, Counsel
Root Creek Water District
5260 N. Palm Ave., Suite 421
Fresno, CA 93704

To Holding Contract No. 65 at:

To Holding Contract No. 67 at:

To Holding Contract No. 69 at:

To Holding Contract No. 74 at:

S & J Ranch
P.O. Box 3347
Pinedale, CA 93650

To Offered Holding Contract No. 72 at:

S & J Ranch
P.O. Box 3347
Pinedale, CA 93650

or at such other address as any party may, by like notice, designate to the other party in writing.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

FRIANT WATER USERS AUTHORITY

By



Chairman

Board of Directors

Attest:

By 
General Manager

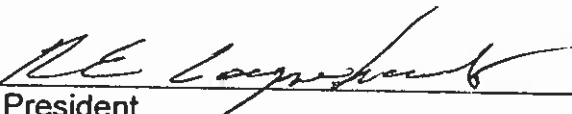
MADERA IRRIGATION DISTRICT

By 
President
Board of Directors

Attest:

By 
General Manager

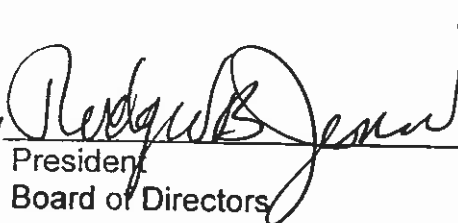
CHOWCHILLA WATER DISTRICT

By 
President
Board of Directors

Attest:

By 
General Manager

ROOT CREEK WATER DISTRICT

By 
President
Board of Directors

Attest:

By _____
General Manager

HOLDING CONTRACT NO. 65

By _____
Owner

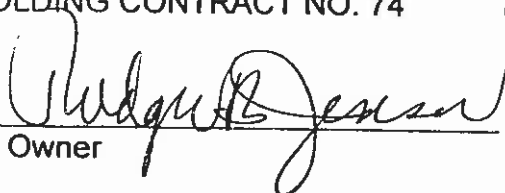
HOLDING CONTRACT NO. 67

By _____
Owner

HOLDING CONTRACT NO. 69

By _____
Owner

HOLDING CONTRACT NO. 74

By  _____
Owner

OFFERED HOLDING CONTRACT NO. 72

By  _____
Owner

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List of Exhibits

EXHIBIT "A"

RCWD Legal Description

EXHIBIT "B"

M&I Consent to Be Bound

**AGREEMENT BETWEEN
MADERA IRRIGATION DISTRICT
and
ROOT CREEK WATER DISTRICT
FOR THE CONVEYANCE AND SALE OF WATER**

THIS AGREEMENT FOR THE CONVEYANCE AND SALE OF WATER ("Agreement") is made and entered into by MADERA IRRIGATION DISTRICT, a California irrigation district ("MID"), and ROOT CREEK WATER DISTRICT, a California water district ("RCWD") (collectively, the "Parties") as of March 13, 2002.

RECITALS:

- A. WHEREAS, MID is an irrigation district organized under the California Irrigation District Law, codified at § 20500 et seq. of the California Water Code, that delivers water from Hidden Dam and Friant Dam under 25-year Long Term Renewal Contracts with the United States Department of Interior, Bureau of Reclamation ("USBR") to locations in Madera County for irrigation purposes.
- B. WHEREAS, RCWD is a water district organized under the California Water District Law, codified at § 34000 et seq. of the California Water Code, and serves a portion of southeastern Madera County currently consisting of 9,221 acres.
- C. WHEREAS, the Parties executed an "Agreement Concerning Agricultural, Municipal and Industrial Water Use Within Root Creek Water District" ("Root Creek Agreement") on December 30, 1999, with the Friant Water Users Authority ("FWUA"), Chowchilla Water District ("CWD") and certain Holding Contract owners and Landowners/Developers within RCWD.
- D. WHEREAS, the Root Creek Agreement recognizes that surface water supplies may become available to RCWD from: (1) Friant Dam flood flow releases unused by Friant Contractors; (2) Water transfers from sources outside of Madera County; (3) Water transfers from Central Valley Project ("CVP") water service or exchange contractors; (4) Water transfers from sources within Madera County; and (5) Purchase of water to supplement San Joaquin River water, first from MID and CWD, then if additional water is needed, purchase from other supplemental sources.
- E. WHEREAS, the Root Creek Agreement, Article III, section 2, provides that before obtaining supplemental water from any sources other than San Joaquin River flood flows, and Section 215 water purchased directly from the Bureau, RCWD shall first satisfy its water purchase requirements from supplies available for sale by MID, to the extent and on the same terms and conditions that MID is willing to sell such water to parties other than Friant Contractors or other CVP Contractors. In exchange MID agrees that RCWD shall have the first right to purchase any MID surface water available for sale outside its district, subject only to water sold to other Friant Contractors or CVP Contractors.

- F. WHEREAS, the Root Creek Agreement, under Article V, section 4, provides that the Parties will negotiate and execute an implementing agreement to construct necessary facilities to convey water to RCWD from MID's Lateral 6.2.
- G. WHEREAS, the United States constructed the Madera Canal as a part of the CVP for the carriage and distribution of waters of the San Joaquin River, which Canal is now operated by the Madera Chowchilla Water and Power Authority ("MCWPA"), pursuant to the "Cooperative Agreement Among the United States of America, the Madera Irrigation District, and the Chowchilla Water District Providing for Operation and Maintenance of Madera Canal and Associated Project Works," dated September 20, 1985, and the Joint Exercise of Powers Agreement by and between MID and CWD.
- H. WHEREAS, on April 30, 1985, MID and CWD entered into an agreement on the method of sharing capacity of the Madera Canal ("1985 Capacity Agreement"), which allocates the capacity of the Madera Canal during normal operations as 60% of the capacity to MID and 40% to CWD, and allows the use of whatever share of the other District's capacity is not being used. The Agreement further provides that this allocated capacity "shall apply regardless of the type of water being delivered to any district."
- I. WHEREAS, the Root Creek Agreement, under Article V, section 5, provides that ~~the Parties will negotiate and execute an implementing agreement regarding~~ water conveyance charges, capacity, terms and conditions.
- J. WHEREAS, the most convenient surface route to deliver water to RCWD is through the Madera Canal and MID Lateral 6.2.
- K. WHEREAS, the Parties desire to explore opportunities to cooperate and jointly participate in groundwater recharge projects in Madera County.
- L. WHEREAS, the Parties desire to cooperate and support one another, as appropriate, on Madera County and regional water issues.
- M. WHEREAS, upon the completion of the Environmental Impact Report ("EIR") for the Village of Gateway Development within RCWD, this Agreement will be reviewed and no physical implementation of the Agreement will occur prior to the completion of such EIR.

NOW THEREFORE, the Parties agree as follows:

ARTICLE I DEFINITIONS

As used in this Agreement, the terms set forth below have the following meanings.

1. "As-Available Capacity" shall mean any water conveyance capacity in the Madera Canal or Lateral 6.2 in excess of MID or CWD needs and the "Reserved

Capacity" made available to RCWD pursuant to this Agreement, which, if available, may be used by RCWD to convey its water.

2. "Building Permit" shall mean any building permit issued by the County of Madera, or any other public entity which may assume such authority, for construction in RCWD pursuant to any Tentative Map, Parcel Map or other entitlement.

3. "CVP Water" shall mean all water that is developed, diverted, stored, or delivered by the USBR in accordance with the statutes authorizing the CVP and in accordance with the terms and conditions of water rights acquired by the USBR pursuant to California law.

4. "CVP Class 1 Water" shall mean that supply of water stored in or flowing through Millerton Lake which, pursuant to MID's Long-Term CVP Water Service Contract, will be available for delivery from Millerton Lake and the Madera Canal as a dependable water supply during each year.

5. "CVP Class 2 Water" shall mean that supply of water which can be made available pursuant to MID's Long-Term CVP Water Service Contract for delivery from Millerton Lake and the Madera Canal, in addition to the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence, such water will be undependable in character and will be furnished only if, as, and when it can be made available, as determined by the USBR.

6. "Village of Gateway" shall mean that certain property described in the Village of Gateway Area Plan dated November 2000.

7. "General Plan Amendment Approval by Madera County" shall mean certification of the Village of Gateway Environmental Impact Report based on the draft dated February 2001, approval of the Village of Gateway Area Plan, designation of the Village of Gateway as a new growth area and the running of any applicable period to appeal those decisions.

8. "Infrastructure Master Plan for Village of Gateway" shall mean that certain plan for infrastructure (including roadways, water, sewer and other urban infrastructure) within the Village of Gateway and the EIR for that plan as required by mitigation measures imposed by the County of Madera in its General Plan Amendment Approval for the Village of Gateway.

9. "Lateral 6.2" shall mean the canal constructed by the U. S. Bureau of Reclamation beginning at mile post 6.2 of the Madera Canal for the purpose of delivering irrigation water to lands within MID

10. "Madera Canal" shall mean the canal constructed by the USBR extending from Friant Dam to the Chowchilla River, for the purposes of flood control and delivering irrigation water to MID and CWD.
11. "Non-CVP Water" shall mean any water not deemed to be CVP Water.
12. "Non-Residential Equivalent Dwelling Unit ("e.d.u.")" shall be defined as follows: The number of e.d.u.'s in any permitted non-residential structure shall equal the total square feet of floor space divided by 500.
13. "Reserved Capacity" shall mean that water conveyance capacity in the Madera Canal or Lateral 6.2 that has been reserved by MID for use by RCWD pursuant to the terms of this Agreement, and held available during the term of this Agreement for RCWD use in conveying its water.
14. "Residential Equivalent Dwelling Unit ("e.d.u.")" shall mean any single family dwelling unit or any unit of a multi-family residential structure designed to house a single family or individual.
15. "Restoration Fund Costs" shall mean any rates, costs or charges payable to the Restoration Fund pursuant to the Central Valley Project Improvement Act, PL 102-575.
16. "Surplus Class 2 Water" shall mean Class 2 water made available to RCWD following a determination by MID that a Surplus Water Condition exists.
17. "Surplus Water Condition" shall mean a condition, as determined solely by MID, wherein the MID supply of Class 2 water, in combination with other water supplies available to MID, has resulted in the ability of MID to transfer water to RCWD without impacting current or future deliveries of water to MID agricultural customers.
18. "Uncontrolled Season" shall mean that period of time, typically occurring during the spring months of March through May, when the USBR has determined that there is a need to evacuate water from Millerton Lake in order to prevent or minimize a spill or meet flood control criteria, and has notified Friant long-term water service contractors that such condition exists. During an Uncontrolled Season, water taken by a Friant long-term water service contractor is in addition to the water supply declaration for the balance of the contract year.
19. "Uncontrolled Season Class 2 Water" shall mean water delivered as Class 2 Water during the period(s) when the USBR has declared an Uncontrolled Season.
20. "MID Long-Term CVP Water Service Contract" shall mean the "Long-Term Renewal Contract Between the United States and Madera Irrigation District

Providing for Project Water Service From Friant Division," Contract No. 175r-2891-LTR1 and as it may be renewed from time to time.

21. "The Root Creek Agreement" shall mean that certain "Agreement Concerning Agricultural, Municipal and Industrial Water Use Within Root Creek Water District" entered into December 30th 1999 by and among the Friant Water Users Authority, Madera Irrigation District, Chowchilla Water District and Root Creek Water District.

ARTICLE II TERM AND RENEWAL OF AGREEMENT

1. Term

This Agreement shall become effective upon execution by the Parties and shall terminate on February 28, 2026.

2. Initiation of Physical Performance

No physical performance, other than the payment of fixed or guaranteed payments due during 2002 through 2005 under this Agreement shall occur prior to environmental review of this Agreement under the EIR prepared by the County of Madera to review the environmental effects of Infrastructure Master Plan for the Village of Gateway, including the implementation of this Agreement.

3. Renewal

Upon date of termination, this Agreement shall be automatically renewed on the same terms and conditions, except as changes to the Agreement are necessary to reflect change in MID's CVP Long-Term Water Supply Contract. Either Party may provide notice of intent to negotiate revised terms for renewal, provided that such notice is made at least one year prior to the expiration of this Agreement.

ARTICLE III. CONVEYANCE FACILITIES AND CHARGES

1. Lateral 6.2

a. Capacity

- i) Under this Agreement, RCWD is entitled to the use of Reserved Capacity in Lateral 6.2 of 25 cfs from May 1 to August 31 of each year, and 50 cfs from September 1 of each year until April 30 of the following year.

- (1) RCWD shall have the first right of refusal for any increase in Reserved Capacity that MID may determine is available on Lateral 6.2 as a result of changed conditions or actions taken by MID. Should RCWD request an increase in available Reserved

Capacity, MID agrees to negotiate in good faith to make such capacity available.

(2) MID shall not reduce Reserved Capacity of RCWD unless required to do so by the USBR or by exercise of state or federal law. Should MID be required to reduce Reserved Capacity, the parties shall negotiate in good faith to adjust capacity charges commensurate with the changed circumstances.

(3) The Reserved Capacity is for the sole and exclusive use of RCWD and it shall not be assigned for any other purpose or to any other user.

ii) As-Available Capacity in excess of Reserved Capacity may be utilized by RCWD during each water year as it becomes available (for that year only) from MID's capacity provided:

(1) MID landowners and agricultural customers' water conveyance capacity needs are first satisfied, then RCWD shall have first priority on any available capacity.

(2) MID shall provide RCWD one day's notice of available capacity changes affecting the requested additional capacity by RCWD.

iii) Terms and Conditions Applicable to RCWD's Reserved Capacity and As-Available Capacity

(1) RCWD must provide MID at least 30 days' notice to initiate deliveries if Lateral 6.2 is out of service at the time delivery is requested by RCWD.

(2) If Lateral 6.2 is in service at the time delivery to RCWD is requested, RCWD shall give MID at least three days' notice of RCWD capacity requirements.

b. Delivery Locations

i) RCWD will use the existing diversion structure from Lateral 6.2 located at Station 129+35 ("Turnout 1-A"), or such structure at that location as modified to increase its diversion capacity.

ii) The existing diversion structure at Turnout 1-A is owned by MID to benefit MID Improvement District #3 landowners. Any modifications to such diversion structure to increase capacity shall be at the sole expense of RCWD, with the approval of MID and MID

Improvement District #3 landowners. RCWD will have the sole responsibility to obtain approval from MID Improvement District #3 landowners but MID will provide reasonable assistance in a mutually acceptable resolution.

- iii) Any additional diversion locations from Lateral 6.2 by RCWD shall require the prior approval of MID, which shall not be unreasonably withheld.

c. Carriage Losses

- i) Carriage losses for conveyance of RCWD water supplies in Lateral 6.2 shall be computed at 3% from Madera Canal outflow structure to delivery location at Turnout 1-A. Carriage losses to any additional future diversion locations shall be determined when additional diversion locations are approved by MID.
- ii) If the only water conveyed in Lateral 6.2 is that being delivered to RCWD, the delivery amount shall be measured at the Madera Canal outflow structure into Lateral 6.2 and no carriage loss calculation will be necessary for Lateral 6.2.

d. Capacity and Conveyance Charges

- i) **Charges for Reserved Capacity And Other Cooperation**
The charges assessed by MID to RCWD for the long-term assurance of availability of Reserved Capacity to convey RCWD water supplies through the Madera Canal and Lateral 6.2 and for the other assistance and cooperation provided to RCWD pursuant to this Agreement include three components. Fixed Reimbursement Payments prior to the construction of residential and commercial development within the Village of Gateway are intended to reimburse MID for prior and anticipated administrative and legal costs incurred in the development, environmental review and administration of this and other agreements.

Commencing in the year 2004, when construction of such units is expected to be underway, two other fees shall then be paid to MID by RCWD: an Impact Fee and an Annual Assessment Fee. The Impact Fee shall be a one-time fee paid by RCWD at the time a building permit is issued for each Equivalent Dwelling Unit for the purpose of defraying all or a portion of the cost of MID facilities related to the development project. The Annual Fee shall be applied annually to all Equivalent Dwelling Units existing at that time.

(1) Fixed Reimbursement Payments to MID by RCWD:

- A. The initial payment shall be \$100,000, which shall be made within 120 days of County of Madera Board of Supervisors final action to approve the Village of Gateway General Plan Amendment,
- B. The second payment of \$125,000 shall be made at the one-year anniversary of the initial payment.
- C. The third payment, expected to occur in 2004, shall be \$150,000, which shall be made upon certification of the applicable EIR and approval of the Infrastructure Master Plan for the Village of Gateway by Madera County.

(2) One-time Impact Fees payable to MID by RCWD at issuance of Building Permits by Madera County shall be paid by the fifteenth (15th) day of each month for Building Permits issued in the prior month based on the following rates:

- A. From 2004 to 2008, \$1,000 per Building Permit issued for each Residential e.d.u., and \$250 per Non-Residential e.d.u. For the year 2005 only, the minimum Impact Fee payable by RCWD shall be \$150,000 as additional reimbursement, provided that any Impact Fees paid in 2004 shall be credited toward meeting the \$150,000 required to be paid by the end of 2005.
- B. From 2009 to 2013, \$1,100 per Building Permit issued for each Residential e.d.u., and \$260 per Non-Residential e.d.u.
- C. From 2014 to 2018, \$1,200 per Building Permit issued for each Residential e.d.u., and \$270 per Non-Residential e.d.u.
- D. From 2019 to 2023, \$1,300 per Building Permit issued for each Residential e.d.u., and \$280 per Non-Residential e.d.u.
- E. From 2024 to 2026, \$1,400 per Building Permit issued for each Residential e.d.u., and \$290 per Non-Residential e.d.u.

F. Upon renewal of this Agreement, the Impact Fee shall continue to escalate in the manner described above (i.e., by \$100 per Residential e.d.u. and \$10 per Non-Residential e.d.u. every five years), unless otherwise agreed to by the Parties.

(3) Annual Assessment Fee payments to MID by RCWD shall be based upon the number of e.d.u.'s on the regular property tax roll of Madera County during each calendar year. The Annual Assessment Fee payments shall be made in two installments due on or before January 31 and May 31 of each year using the following annual unit rates:

A. Annual Payment Rate for 2004: \$80.00 per Residential e.d.u. and \$40.00 per Non-Residential e.d.u.

B. Each year thereafter the Annual Payment Rate for both Residential e.d.u. and Non-Residential e.d.u. shall increase by 2% per year (e.g., the payment rate for 2005 will be \$81.60 per Residential e.d.u. and \$40.80 per Non-Residential e.d.u.).

ii) Conveyance Charges

(1) Reserved Capacity Water conveyed by RCWD through the Madera Canal and Lateral 6.2 pursuant to this Agreement shall be subject to charges based on the cost per acre-foot of water conveyed, which will be determined each year based on MID's budget for that upcoming year. (Such annual rate will be established to cover MID operations, maintenance and administrative costs of conveying water, including MID's share of costs to convey water through the Madera Canal.)

(2) The conveyance charge shall reflect the full operations cost of Lateral 6.2 if the canal would not otherwise be operating at the time RCWD is using such capacity.

(3) The conveyance charge shall be calculated based upon the amount delivered as measured at Turnout 1-A, plus Carriage Losses as defined in Section III 1.c. above, or if the only water conveyed in Lateral 6.2 is that being delivered to RCWD, the delivery shall be measured at the Madera Canal turnout structure.

- (4) The payment of conveyance charges shall be due within 30 days of the last day of the month in which water is delivered.

2. Madera Canal

a. Use of MID Share of Reserved Capacity in Madera Canal

Under this Agreement, RCWD may also utilize a portion of MID's allocation of Madera Canal capacity equal to RCWD's Reserved Capacity in Lateral 6.2 set out in Section III 1.a.i) above, under the following terms and conditions:

- i) Utilization of MID's share of Reserved Capacity in the Madera Canal shall be for a 25-year period (to match term of the current MID CVP Contract) and shall be renewable on the same terms and conditions with the exception of any changes required by USBR in any renewal of the MID CVP Contract.
- ii) RCWD's utilization of MID's Reserved Capacity in the Madera Canal may be subject to necessary conveyance agreements with MCWPA and USBR.
- iii) As provided in Section III 1.a.i)(3), the Reserved Capacity is for the sole and exclusive use of RCWD and it shall not be assigned for any other purpose or to any other user.

RCWD payment to MID for its share of Reserved Capacity in the Madera Canal is included in RCWD's payment to MID for Lateral 6.2 Reserved Capacity as set forth in Section III 1.d.i) of this Article.

b. RCWD Use of Additional As-Available Capacity in Madera Canal

Under this Agreement, RCWD may also utilize As-Available Capacity in excess of its Reserved Capacity in MID's allocation in the Madera Canal on the following terms and conditions:

- i) As-Available Capacity in the Madera Canal may be available on an annual basis, subject to satisfying needs of MID and CWD conveyance requirements.
- ii) If the Madera Canal is not currently operating, RCWD must give MID at least 30 days' notice of request for As-Available Capacity. If Canal is out of service due to scheduled Canal maintenance, the 30-day notice period may be modified by mutual agreement of the Parties and MCWPA with the intent of operating the canal as soon as reasonably possible. (Such minimum maintenance period will

be determined annually by the MCWPA in consultation with the Parties.)

- iii) If Madera Canal is operating, RCWD must give MID at least three days' notice of request for As-Available Capacity.
- iv) MID must give RCWD one day's notice of any change in As-Available Capacity.

c. Terms and Conditions Applicable to RCWD Use of Both Reserved Capacity and As-Available Capacity in the Madera Canal

- i) RCWD's use of capacity in the Madera Canal shall not include the annual 45-day period of "down" time for Canal maintenance. MID shall give RCWD 30 days' prior written notice of such scheduled Canal maintenance down time.
- ii) The use of capacity provided in this Agreement in the Madera Canal shall in no manner be construed as a warranty or covenant by MID that any water is available to be conveyed under such RCWD capacity and such conveyance shall be subject to the USBR ~~minimum release requirements in place at Friant Dam.~~ (The availability of any water to be conveyed under the capacity provided in this section depends upon a variety of factors beyond MID's control, such as annual precipitation, increased use by MID and CWD landowners, and other factors.)
- iii) The delivery location of waters conveyed through the Madera Canal pursuant to this section shall be at the Lateral 6.2 diversion on the Madera Canal.
- iv) RCWD is responsible for scheduling the water deliveries with MID.
- v) Carriage Losses
 - (1) There shall be no carriage losses within the Madera Canal associated with CVP water whose delivery point is at Lateral 6.2.
 - (2) Carriage losses for all water that is not CVP water shall be calculated pursuant to Warren Act provisions in any applicable USBR Contracts.
- vi) Conveyance Charges for the Madera Canal

(1) There shall be no additional charge to RCWD for the conveyance of water that is purchased directly from MID pursuant to other terms of this Agreement.

(2) RCWD will pay all operations costs of the Madera Canal to MID if the Canal is operated solely for the conveyance of water to RCWD.

ARTICLE IV. SALE OF MID WATER AND OPTIONS TO PURCHASE

1. Options to Purchase MID Water

RCWD shall pay an annual option fee to MID to secure the first right to purchase surplus water from MID (if any) on the following terms and conditions for each source of water specified:

- a. Surplus Class 2 Water will be made available by MID for purchase by RCWD pursuant to an annual option by RCWD upon the occurrence of:
 - i) A determination by MID based on June 1 or later water supply conditions, that Class 2 Water available to MID, in combination with other supplies available to MID, has resulted in the ability of MID to transfer water to RCWD without impacting current or future deliveries to MID agricultural customers.
 - ii) If USBR issues a notice of reduced allocation of Class 2 Water after delivery of Surplus Class 2 Water by MID to RCWD is complete, RCWD shall render replacement of water to MID from other water supply sources within one year of date of pre-reduction delivery.
- b. Uncontrolled Season Class 2 water will be available for purchase by RCWD pursuant to an annual option by RCWD only upon MID determination that there is water in excess of MID's ability to divert and deliver water to MID landowners, recharge facilities or storage facilities, including those facilities that may be developed in conjunction with RCWD, during the uncontrolled season.

2. Option Payments

- a. RCWD shall purchase annually from MID an option to receive 10,000 acre-feet of MID water.
- b. The total annual option price shall be \$10 per acre-foot per year, equaling a \$100,000 annual payment, payable no later than February 1 of each calendar year.

- c. Option payments are non-refundable and MID makes no guarantee that surplus water will be available in any year for purchase under these options.
- d. RCWD shall receive full credit for option payments for water purchased in future years up to a maximum \$50.00 per acre-foot purchased in any year.
- e. Annual Option payments by RCWD shall not be required whenever RCWD has accumulated an unused \$500,000 credit because MID has been unable to make water available.
- f. Option payments by RCWD shall be forfeited at a rate of \$10.00 per acre-foot for water made available by MID but not taken by RCWD.

3. Purchase of Water By Exercise of Option

- a. **Price of MID CVP Water Purchased Under Exercise of Option**
If RCWD exercises its option to purchase water from MID, the purchase price shall be set at \$50 per acre-foot above MID cost of water. The MID cost of water determination will include the following: CVP contract rate (currently \$10.05/acre-foot); Restoration Fund Charges; any incremental costs charged by USBR; any USBR surcharge for water transferred to non-CVP Contractors; and San Luis/Delta Mendota Authority charges, and other charges that may be imposed upon MID water deliveries.
- b. **Delivery of MID Non-CVP Water Supplies Under Exercise of Option**
 - i) MID may deliver Non-CVP Water, if available, in lieu of CVP Class 2 Water.
 - ii) If Non-CVP water is delivered to RCWD in lieu of Class 2 Water, cost adjustment will be made to reflect increases or decreases in MID or RCWD costs, including but not limited to:
 - (1) Restoration Fund Costs, if any;
 - (2) Non-CVP water conveyance charges and carriage losses.
- c. **Cooperation in Acquisition of Supplemental Supplies**
MID will cooperate and assist RCWD in securing supplemental water supplies from other sources. If MID secures such supplies on behalf of RCWD, the following charges shall be assessed by MID to RCWD:

- i) The purchase price by RCWD shall be \$50 per acre-foot above MID cost in securing such supplies;
- ii) MID shall apply option payments previously made to MID by RCWD to the price payable by RCWD for such supplemental supplies up to \$50 per acre-foot.

4. Billings and Payments

a. Compensation Factor for Carriage Losses

The billing for water shall be based on charges per acre-foot of metered water taken by RCWD at the point of delivery. In order to compensate for the carriage loss set forth in Section III.1.c (Carriage Losses), the billing for all water charges under this Agreement shall be based on the amount of metered water taken by RCWD multiplied by a factor of 1.03, except as otherwise provided in Section III.1.c.

b. Billing Due Dates

~~RCWD will be billed separately by MID for water purchase amounts and water conveyance costs. All payments shall be due within 30 days of the last day of the month in which water is delivered. Interest shall be charged for all delinquent payments at a rate of 1 percent per month from the due date to the date of payment.~~

ARTICLE V CONDITIONS AND OBLIGATIONS OF PARTIES

1. Madera Irrigation District

a. Assistance with Environmental Approvals

MID agrees to provide reasonable assistance to RCWD, as appropriate on water issues, on the County, State and Federal environmental approvals for the Village of Gateway General Plan Amendment, the Infrastructure Master Plan for the Village of Gateway, subsequent tentative and subdivision maps, the Root Creek Agreement and this Agreement.

b. Provide Reasonable Support at Gateway Village Entitlement Hearings

MID agrees to provide RCWD reasonable support on water issues at all entitlement hearings for the Village of Gateway General Plan Amendment, the Infrastructure Master Plan for the Village of Gateway, subsequent tentative and subdivision maps before the Madera County Planning Commission and Board of Supervisors.

c. Provide Support for Future Annexations to RCWD

MID agrees to provide RCWD reasonable support for additional future annexations to RCWD, providing such annexations are subject to the provisions of the Root Creek Agreement and this Agreement.

d. Provide Support for Special RCWD Legislation

MID agrees to provide RCWD reasonable support for State legislation to expand the powers of RCWD to allow RCWD to provide roadways, public buildings and school facilities, parks, street lighting and landscaping, electricity, natural gas, telecommunications, and other utilities and urban services and contract for police and fire services within the boundaries of RCWD. MID acknowledges, however, that nothing in this Agreement entitles MID to participate in any additional revenue generated by RCWD from any activities authorized by the special legislation.

e. Provide Assistance in Obtaining Pipeline from RCWD to Lateral 6.2

MID shall provide reasonable assistance to RCWD to obtain an easement to deliver water from Turnout 1-A on Lateral 6.2 to the boundary of RCWD.

2: Root Creek Water District

a. Indemnification of MID by RCWD

It is the understanding of the Parties hereto, and the intention of this Agreement, that the execution of this Agreement by MID and all actions taken by MID under this Agreement are to be performed at the expense and risk of RCWD, and that RCWD shall defend, indemnify and hold MID harmless against any loss, expense, damage or liability of any kind whatsoever, including attorneys' fees, arising out of or in connection with the sale or conveyance of water or any other action taken under this Agreement.

b. Future Lands Annexed or Served by RCWD

All additional lands annexed or served by RCWD after the date of execution of this Agreement shall be annexed or served by RCWD subject to the terms and provisions of the Root Creek Agreement and this Agreement.

c. RCWD Commitment to Purchase Water First from MID and CWD

In purchasing its necessary water supplies, RCWD shall purchase such water first from MID and then CWD, if available, prior to purchasing water from any other sources.

d. **RCWD Commitment Not to Sell or Provide Water Service to Lands Outside of RCWD Boundaries**

RCWD shall not sell or provide water service utilizing water purchased from MID to lands outside of RCWD boundaries without the prior approval of MID.

e. **Provision of Services Only to Properties Subject to a Groundwater Management Plan**

RCWD will provide its services, including but not limited to, provision of water, wastewater treatment, flood control, electrical power, natural gas, telecommunications, public facilities, or any other urban or M & I services, only to properties that have adopted or are subject to a groundwater management plan that stipulates to water balance, and, if applicable, are subject to an agreement to limited consumption of San Joaquin River waters pursuant to USBR Holding Contracts, similar to the limitations imposed in the Root Creek Agreement.

ARTICLE VI

GENERAL PROVISIONS

1. **Compliance with Environmental Laws**

The Parties shall comply with all applicable federal, state and local environmental laws and regulations, and take all steps necessary to assess whether the activities described in this Agreement may adversely impact threatened or endangered species, critical habitat or other environmental resources regulated pursuant to the federal Endangered Species Act, the California Endangered Species Act and other applicable state and federal laws relating to the protection of environmental resources.

2. **Enforcement of Agreement**

If default shall be made by any Party in any provision contained in this Agreement, such default shall not excuse the other Party from fulfilling its obligations under the Agreement and such other Party shall continue to be liable for the performance of all obligations herein contained. The Parties hereby declare that this Agreement is entered into for the benefit of all Parties to the Agreement and each Party shall have the right to enforce this Agreement, and all the obligations of each Party hereunder, by whatever lawful means that Party deems appropriate.

3. **Recording**

This Agreement shall be recorded in the Official Records of Madera County to bind the land within RCWD to the extent legally permissible and to make an official record of the agreement of the Parties.

4. Best Efforts/No Guaranty

When this Agreement requires any Party to assist, cooperate, negotiate, facilitate or otherwise participate in a process to obtain a mutually desired result described in this Agreement, all that is required of that Party is that they exert their reasonable and appropriate best efforts in relation to the matter described in this Agreement. In agreeing to cooperate, assist or negotiate in good faith, no Party is endeavoring to guaranty any result describe or sought by this Agreement.

5. Uncontrolled Forces

If any of the Parties to this Agreement are prevented in whole or in part from delivering wheeling or receiving water as a result of forces beyond their control, all Parties are relieved from the obligations to the extent they are reasonably unable to complete the obligation due to the uncontrollable force. Uncontrollable forces shall include, but are not limited to, earthquakes, fires, tomadoes, floods and other natural disasters. However, each Party shall be responsible for payment of any costs incurred on its behalf by the other Party before the occurrence of the uncontrollable force.

6. Waste and Unreasonable Use

Nothing in this Agreement is intended or shall be construed as condoning any waste or unreasonable use of water. All Parties specifically retain their rights and responsibilities as water purveyors to ensure that water within their jurisdiction is put to reasonable and beneficial use.

7. Remedies - Specific Performance

The Parties acknowledge that both groundwater and surface water are unique and irreplaceable resources. Therefore, monetary compensation or other remedies at law will not be sufficient to cure a breach of this Agreement. Thus, the Parties agree that in addition to all remedies at law, specific performance shall be available to all Parties to enforce the terms of this Agreement.

8. Costs

The costs and expenses incurred for the preparation of this Agreement shall be paid by each Party subject only to the reimbursement of MID set forth above.

9. Time

Time is of the essence of this Agreement and each and all of its provisions.

10. Effect of Headings

The subject headings of the articles and paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

11. Entire Agreement

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties. No supplement, modification, or amendment to this Agreement shall be binding unless executed in writing by all of the Parties hereto. It is understood by the Parties that this Agreement may be subject to additional mitigation measures if required by the EIR to be prepared for the Village of Gateway Amendment to the Madera County General Plan, the Infrastructure Master Plan for the Village of Gateway, subsequent tentative or subdivision maps for the Village of Gateway.

12. Waiver

Waiver of any breach of this Agreement by any Party hereto shall not constitute a continuing waiver or a waiver of any breach of the same or another provision of this Agreement.

13. Counterparts

This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, all of which together shall constitute one and the same instrument.

14. Binding Effect

This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns and successors of the Parties hereto, and shall bind and apply to all property subsequently annexed to RCWD or any other party and shall be recorded against subsequent annexed land.

15. Survival of Agreement

The provisions of this Agreement and the covenants and conditions contained herein shall be continuous and shall survive any annexation or other change in the boundaries of RCWD and any transfer of ownership of any Holding Contract property or other property within RCWD.

16. Attorneys' Fees

Should any litigation be commenced between the Parties hereto concerning this Agreement or the rights and duties of any Party in relation thereto, the Party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to recover from the losing Party a

reasonable sum for its attorneys' and paraprofessionals' fees and costs in such litigation, or any other separate action brought for that purpose.

17. Governing Law

This Agreement shall be governed by the laws of the State of California.

18. Rules of Construction and Word Usage

All words used in the Agreement shall be construed to include the plural as well as the singular number and vice versa. Words used herein in the present tense shall include the future as well as the present, and words used in the masculine gender shall include the feminine and neuter genders.

19. Parties in Interest

Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies on any persons other than the Parties hereto and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any Party to this Agreement, nor shall any provision give any third person any right of subrogation or action over and against any Party to this Agreement.

20. Notices

All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service, if served personally on the person to whom notice is to be given, or on the third (3rd) day after mailing, if mailed to the Party to whom notice is to be given by first class mail, registered or certified, postage prepaid, and properly addressed as follows:

To Stephen H. Ottermoeller, General Manager, at:
Madera Irrigation District
12152 Road 28 1/4
Madera, CA. 93637-9199

To Christopher L. Campbell, Counsel, at:
Root Creek Water District
5260 N. Palm Ave., Suite 421
Fresno, CA 93704

or at such other address as any party may, by like notice, designate to the other Party in writing.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

MADERA IRRIGATION DISTRICT

Ron Pistorresi
By President - Board of Directors

Attest:

By SA Ottum
GENERAL MANAGER

ROOT CREEK WATER DISTRICT

[Signature]
By President - Board of Directors

Attest:

By Abraham C. Messer
SECRETARY ROOT CREEK
WATER DISTRICT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

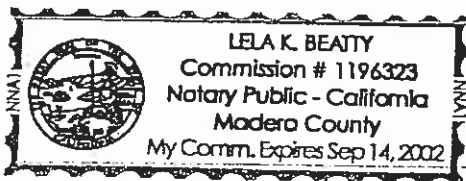
State of California

County of Madera } ss.

On March 13, 2002, before me, Lela K. Beatty, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
 personally appeared Phillip R. Pierre
Name(s) of Signer(s)

☐ personally known to me
☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Lela K. Beatty
 Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Agreement Between MID & Root Creek WD for the Conveyance & Sale of Water
 Document Date: 3/13/02 Number of Pages: 20

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: Root Creek Water District

RIGHT THUMBPRINT
 OF SIGNER
 Top of thumb here

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

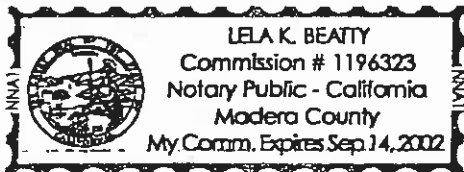
State of California

County of Madera } ss.

On March 13, 2002, before me Lela K. Beatty, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
 personally appeared Lon Pistaresi
Name(s) of Signer(s)

☒ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Lela K. Beatty
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Agreement Between MID & Root Creek WD for the Conveyance & Sale of Water
 Document Date: 3/13/02 Number of Pages: 20

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: Madera Irrigation District

RIGHT THUMBPRINT
 OF SIGNER
 Top of thumb here

WATER SUPPLY AGREEMENT

between

ROOT CREEK WATER DISTRICT

and

WESTSIDE MUTUAL WATER COMPANY, LLC

November 1, 2006

WATER SUPPLY AGREEMENT

THIS WATER SUPPLY AGREEMENT is made effective as of November 1, 2006, by and between the ROOT CREEK WATER DISTRICT, a California water district ("RCWD") and WESTSIDE MUTUAL WATER COMPANY, LLC, a California limited liability company ("Westside").

RECITALS:

A. RCWD is a California water district, located in Southeastern Madera County. The lands of the district have been extensively developed to agriculture, and in particular, permanent plantings. Also, a portion of the district has been designated for municipal and industrial development.

B. The lands within RCWD rely primarily on groundwater, and the groundwater basin underlying the district is in a state of overdraft. In order to efficiently manage its groundwater supplies, RCWD is seeking to acquire surface water supplies for conjunctive use purposes.

C. RCWD has acquired or will acquire certain wet-year supplies that it intends to deliver to its agricultural water users. RCWD is also seeking "firm" supplies, available in dry years, that will be available if necessary for the agricultural, municipal and industrial development within the district. Westside desires to provide RCWD with dry-year firm supplies, as described below.

D. Westside and its members have certain rights to banked groundwater in the North Kern Water Storage District ("North Kern") and may bank additional water in North Kern in the future. Westside proposes to pump and deliver banked groundwater to North Kern, for North Kern in turn to deliver to the Shafter Wasco Irrigation District ("SWID"). SWID shall use the banked groundwater delivered from North Kern in lieu of a comparable amount of surface water that SWID would otherwise have taken from the Friant Unit of the Central Valley Project ("Friant"), under its long-term water supply contract with the US Bureau of Reclamation ("Reclamation"). Westside and its members also have access to certain non-project supplies (i.e., waters that are not captured or delivered by Reclamation's Central Valley Project) that Westside may provide to RCWD under this Agreement.

E. The Friant water that could have been delivered to SWID shall remain in Lake Millerton, available for delivery to RCWD through the Madera Canal and related facilities. The parties intend that the SWID water delivered from Lake Millerton to RCWD shall be deemed an exchange for North Kern banked groundwater, and shall not be deemed to be Federal project water when delivered to RCWD.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, the parties agree as follows:

1. Definitions. Definitions for the following terms are found at the following paragraphs of this Agreement:

- (a) "Approvals" is defined at Paragraph 10.
- (b) "CEQA" is defined at Paragraph 10(b).
- (c) "Commencement Date" is defined at Paragraph 8.
- (d) "Delivered Price" is defined at Paragraph 3(c).
- (e) "Delivery Point" is defined at Paragraph 6.
- (f) "Event of Default" is defined at Paragraph 16.
- (g) "Friant" is defined at Recital D.
- (h) "Force Majeure Event" is defined at Paragraph 14(b).
- (i) "Maximum Delivery Quantity" is defined at Paragraph 2.
- (j) "North Kern" is defined at Recital D.
- (k) "Order" is defined at Paragraph 5.
- (l) "Pre-Delivered Water" is defined at Paragraph 7.
- (m) "Reclamation" is defined at Recital D.
- (n) "Replacement Water Supply" is defined at Paragraph 16.
- (o) "Pre-Delivery Notice" is defined at Paragraph 7.
- (p) "RCWD" is defined in the Preamble.
- (q) "Reservation Fee" is defined at Paragraph 3(a).
- (r) "Standby Charge" is defined at Paragraph 3(b).
- (s) "SWID" is defined at Recital D.
- (t) "Term" is defined at Paragraph 8 .
- (u) "Uncredited Standby Charges" is defined at Paragraph 7(b)(i).
- (v) "Westside" is defined in the Preamble.

2. Agreement to Sell/Right to Purchase. Westside hereby agrees to sell to RCWD banked groundwater or other non-project waters available to Westside each year as requested by RCWD pursuant to the notice procedure set forth below. The amount Westside is obligated to sell each year shall not exceed the "Maximum Delivery Quantity" for that year described in Exhibit "A" to this Agreement and incorporated herein by this reference. RCWD shall not be obligated to purchase water from Westside, except as provided in this Agreement.

3. Pricing.

(a) *Reservation Fee.* Notwithstanding any other provision herein, commencing January 1, 2006 and continuing until the Commencement Date, RCWD shall pay to Westside the sum of \$50,000 each calendar quarter to reserve the availability of water supplies under this Agreement (the "Reservation Fee"). The Reservation Fee shall be paid not later than the 30th day of each calendar quarter.

(b) *Standby Charge.* Beginning on the Commencement Date, RCWD shall pay to Westside an annual "Standby Charge" of \$180 per acre-foot of the Maximum Delivery Quantity available each calendar year, as specified in Exhibit "A" hereto, as adjusted pursuant to this paragraph 3(b) and paragraph 9(b)(ii) hereof. Commencing on the Commencement Date and annually thereafter, the Standby Charge shall be adjusted annually for inflation by the same percentage as the percentage change in the Consumer Price Index for All Urban Consumers, West Region from the value of the Index on January 1, 2006. The annual Standby Charge shall be paid not later than January 31 of each year. Subject to paragraph 7(b)(ii) hereof, all Standby Charges paid shall be credited against the price of water purchased under this Agreement. Any Standby Charges paid that are not credited to water purchased in any year shall roll over into subsequent years until utilized for water purchased. While there shall be no limit to the amount of credit RCWD can accrue for Standby Charges paid, RCWD shall not be entitled to exceed the Maximum Delivery Quantity of water available in any year. If at the end of the Term there is a credit remaining, then RCWD shall be entitled to order and delivery, and be subject to pre-delivery, of the amount of water that can be purchased with such credit pursuant to the provisions of this Agreement.

(c) *Water Charge.* The price of water delivered under this Agreement shall be \$600 per acre-foot (the "Delivered Price") as adjusted pursuant to this paragraph 3(c) and paragraph 9(b)(ii) hereof. Commencing on the Commencement Date and annually thereafter, the Delivered Price shall be adjusted annually for inflation by the same percentage as the percentage change in the Consumer Price Index for All Urban Consumers, West Region from the value of the Index on January 1, 2006.

4. Payment of Delivered Price. RCWD shall pay the Delivered Price for all water ordered within 60 days of the Order for such water. Standby Charges paid shall be credited against the Delivered Price pursuant to paragraph 3(b) hereof.

5. Ordering. Not later than April 1 of each calendar year, RCWD shall give written notice to Westside of the amounts of water to be purchased that year (the "Order"), up to the Maximum Delivery Quantity for that year. At RCWD's option, RCWD may also include in the Order a monthly schedule of requested deliveries as well as the total for the year and Westside shall use its reasonable good faith efforts to comply with the requested delivery schedule. In no case shall Westside be obligated to deliver more than 13.5 percent of the Maximum Delivery Quantity for that year in any single month; provided, however, that Westside shall remain obligated to deliver the full Maximum Delivery Quantity.

6. Delivery. The delivery point for all water ordered under this Agreement shall be RCWD's turnout on Madera Irrigation District Lateral 6.2 from the Madera Canal (the "Delivery Point"). The delivery period for all water ordered shall be April through September. Westside shall not be obligated to deliver any water during the period October through March; provided, however that Westside may pre-deliver water at any time during the year pursuant to paragraph 7 hereof regarding Pre-Delivery.

(a) Conveyance to Delivery Point. Except as provided in this Agreement, Westside shall be solely responsible for conveyance arrangements necessary to deliver the water to the Delivery Point, including, but not limited to, contracting with other parties for water exchanges.

(b) Losses. Westside shall be responsible to deliver the full amount of water specified in the Order to the Delivery Point and shall have no responsibility for any losses of any kind after its delivery of water to the Delivery Point. RCWD shall be solely responsible for any losses, including carriage or conveyance losses, after the Delivery Point.

7. Pre-Delivery. Westside may, at its option, deliver water at any time during the year to RCWD prior to receipt of an Order for such water ("Pre-Delivered Water"), provided that RCWD has available conveyance capacity and beneficial use (including capacity for direct recharge) for such water. Westside shall notify RCWD in writing when and if Westside has water available for pre-delivery ("Pre-Delivery Notice"). The Pre-Delivery Notice shall specify the amount of water available to be pre-delivered and the proposed timing of delivery. Not later than ten (10) days following receipt of the Pre-Delivery Notice, RCWD shall notify Westside how much, if any, Pre-Delivered Water that RCWD has the conveyance capacity and beneficial use to receive over and above that dedicated to receiving Section 215 water available to RCWD as a Section 215 contractor with the Bureau of Reclamation and/or water available under its agreement with Madera Irrigation District dated March 13, 2002 as it exists on the date hereof. RCWD shall maintain during the Term sufficient beneficial use and conveyance capacity in its water delivery facilities to allow (a) total deliveries of at least 10,000 AF of water each calendar year and (b) deliveries by Westside of at least 4,000

AF of water each calendar year. If this obligation is not satisfied at any time during the Term, then Westside shall have first priority to use RCWD delivery facilities for Pre-Delivered Water until the quantity of water prevented from being delivered by such limitation is delivered by Westside.

(a) *Application to Orders (Delivery).* Water Orders made by RCWD shall be considered satisfied first from the amount of Pre-Delivered Water delivered to the Delivery Point. RCWD shall not be considered to have ordered Pre-Delivered Water until Westside receives an Order.

(b) *Application of Uncredited Standby Charges.* If, as of December 31 of any year:

(i) RCWD has Pre-Delivered Water remaining, and after crediting the Standby Charges paid by RCWD against all water ordered by and delivered to RCWD prior to December 31 of that year RCWD still has a credit for additional Standby Charges ("Uncredited Standby Charges"), then

(ii) RCWD shall be deemed to have ordered an amount of the remaining Pre-Delivered Water up to the lesser of the amount of remaining Pre-Delivered Water or the amount that could be purchased for the amount of the Uncredited Standby Charges. The appropriate amount of Pre-Delivered Water shall be deemed delivered and paid for by crediting the appropriate amount of Standby Charges as of December 31 of that year. At the end of the Term, RCWD shall pay for any Pre-Delivered Water remaining after the foregoing credit at the then existing Delivered Price.

(c) *Reporting.* To monitor RCWD's use of Pre-Delivered Water, RCWD shall deliver to Westside a copy of RCWD's annual report submitted to Madera County, the Madera Irrigation District and/or the Friant Water Users' Authority (or its successor under the December 31, 1999 contract with RCWD) at the time of such submission demonstrating RCWD's water deliveries utilized for elimination of the contribution of its lands to regional overdraft. Should RCWD report the use of any Pre-Delivered Water, or other water from Westside that RCWD has not paid for, in achieving RCWD's groundwater balance, then RCWD shall promptly pay Westside for the reported water.

8. Term. The initial term of this Agreement shall be for a period of twenty-five (25) years, commencing on the "Commencement Date," which shall be January 1, 2008, or, if the General Plan Amendment, Area Plan Amendment and Specific Plan Amendment for Gateway Village are not approved by June 30, 2007, January 1, 2009, unless otherwise mutually agreed by RCWD, Westside, North Kern and SWID.

9. Renewal.

(a) *Renewal.* Subject to the renewal provisions described below, RCWD may, at its option, renew this Agreement on the same terms and conditions for up to one (1) additional twenty-five (25) year period. Each twenty-five (25) year period is referred to herein as a "Term". RCWD shall provide written notice to Westside of its intent to renew not later than one (1) year prior to the expiration of the initial Term.

(b) *Renewal Provisions.*

(i) Notwithstanding paragraph 6(a) hereof, RCWD and Westside shall, upon delivery to Westside of RCWD's notice of intent to renew this Agreement pursuant to paragraph 9(a) hereof, be mutually obligated to secure the conveyance arrangements necessary to deliver water under this Agreement to the Delivery Point for any renewal Term. In the event that such arrangements cannot reasonably be secured prior to the expiration of the initial term despite the good faith efforts of both parties, then this Agreement shall not be renewed.

(ii) At the beginning of the renewal Term, the Delivered Price and the Standby Charge shall be adjusted to an amount that reflects the then-current market price for water supplies of similar origin and reliability delivered to the Delivery Point. In the event that the parties are unable to agree as to a then-current market price, such price shall be decided through the dispute resolution procedure described in Paragraph 18 below.

10. Governmental Approvals and Environmental Review.

(a) *Governmental Approvals.* The parties shall work together to obtain any approvals or consents necessary from any governmental agency for the transactions contemplated herein ("Approvals"). Notwithstanding the foregoing,

(i) RCWD shall be solely responsible for any costs or fees incurred for any Approvals, except as provided in this Agreement.

(ii) Westside shall be solely responsible to negotiate with and obtain any necessary Approvals from North Kern and SWID.

(b) *CEQA.* The parties acknowledge that RCWD, North Kern and SWID are responsible to comply with the provisions of the California Environmental Quality Act ("CEQA") in connection with the performance of the actions contemplated by this Agreement. For CEQA purposes, RCWD shall be the lead agency, and North Kern and SWID shall be responsible agencies. RCWD shall bear all costs for CEQA compliance.

11. Conditions Precedent. The following are conditions precedent to the parties' performance under this Agreement except for RCWD's unconditional obligation to pay the Reservation Fee which shall be absolute:

(a) Westside and North Kern shall have executed the agreements necessary for Westside's performance under this Agreement; provided, however, that execution of such agreements shall be within the sole and absolute discretion of Westside. If this condition precedent is not satisfied, then Westside shall refund to RCWD one-half of the Reservation Fee paid to that date and this Agreement shall terminate.

(b) Westside and SWID (or at Westside's discretion Westside and another Friant Contractor) shall have executed the agreements necessary for Westside's performance under this Agreement; provided, however, that execution of such agreements shall be within the sole and absolute discretion of Westside. If this condition precedent is not satisfied, then Westside shall refund to RCWD one-half of the Reservation Fee paid to that date and this Agreement shall terminate.

(c) RCWD, North Kern and SWID shall have completed their environmental review as required by CEQA for the actions contemplated by this Agreement, and the time period to appeal the approval by any of those agencies of any CEQA document shall have run.

(d) The parties shall receive written confirmation from Reclamation that:

(i) RCWD is within the municipal and industrial "place of use" designated in Reclamation's permits from the State Water Resources Control Board for waters delivered from Friant; and that

(ii) SWID Friant water exchanged for North Kern banked groundwater shall be considered "non-project" water when delivered to RCWD.

(e) The parties have received all necessary Approvals.

12. Westside Representations and Warranties. Westside represents and warrants to RCWD that, to the best of Westside's knowledge:

(a) Westside is a limited liability company duly organized, validly existing and in good standing under the laws of the State of California;

(b) As of the date of this Agreement, Westside and its members have banked groundwater within North Kern on their own account(s) and have the current right to withdraw and transfer about 30,000 acre feet of that stored water. Westside and its members also have the right to bank additional water and have other water banked within Kern County that,

based on circumstances, laws, rules and regulations that exist as of the date of this Agreement, will allow Westside to fulfill its obligations under this Agreement throughout the total 50 year term if the option to renew is exercised.

(c) Westside has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder; and all actions required to be taken on its part to approve the execution and delivery of this Agreement have been duly taken. This Agreement constitutes a legal, valid and binding obligation of Westside, enforceable against Westside in accordance with its terms.

(d) The execution and delivery of this Agreement by Westside, and the performance of its obligations hereunder do not and will not (i) violate, or conflict with its obligations under any contract to which it is a party or by which it is bound, or (ii) violate (and none of such obligations is void or voidable under) any law, regulation, order, arbitration award, judgment or decree to which it is a party or to which it is subject.

(e) Subject to paragraphs 10 and 11 hereof, no authorization, consent or approval of, or notice to, any person or entity (including but not limited to any federal, state, county, local or foreign government, regulatory body or official or any third party) not already obtained or given by Westside is required to be obtained or given in connection with the execution and delivery of this Agreement by Westside or the performance of any of its obligations hereunder.

(f) Subject to paragraphs 9, 10, 11 and 14 hereof, Westside currently has and will maintain throughout the Term, as extended, the legal right and ability to perform all of its obligations under this Agreement, including, but not limited to, the conveyance arrangements necessary to deliver the water to the Delivery Point.

(g) As of the date of this Agreement, there is no suit, action, arbitration, or legal, administrative, or other proceeding, or governmental investigation pending or threatened affecting any of the transactions contemplated by this Agreement.

13. RCWD Representations and Warranties. RCWD represents and warrants to Westside that, to the best of RCWD's knowledge:

(a) RCWD is a California water district duly formed and organized under the California Water District Law; RCWD has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder; and all action required to be taken on its part to approve the execution and delivery of this Agreement has been duly taken.

(b) The execution and delivery of this Agreement by RCWD, and the performance of its obligations hereunder, do not and will not (i) violate, or conflict with its obligations under, any contract to which it is a party or by which it is bound, or (ii) violate (and none of such obligations is void or voidable under) any law, regulation, order, arbitration award, judgment or decree to which it is a party or to which it is subject.

(c) As of the date of this Agreement, there is no suit, action, arbitration, or legal, administrative, or other proceeding, or governmental investigation pending or threatened affecting any the transactions contemplated by this Water Service Agreement.

(d) This Agreement constitutes the legal, valid and binding obligation of RCWD, enforceable against RCWD in accordance with its terms.

14. Force Majeure/Permitted Suspension of Performance.

(a) *Suspension of Water Delivery.* Westside may suspend its delivery obligations under this Agreement only if it is unable to substantially perform such delivery obligations as the result of a Force Majeure Event (defined below); provided, however, that no suspension shall extend the Term of this Agreement. If at all possible, prior to suspension of performance, and in no event less than two business days following suspension of performance of water delivery based on a Force Majeure Event, Westside shall provide RCWD with written notice of the estimated duration for the suspension and the basis for the suspension. Westside shall additionally provide RCWD with any information that Westside subsequently obtains regarding the Force Majeure Event and any information RCWD may reasonably request. Except as expressly provided in this Paragraph or as a remedy for a default of the other party, neither party shall be entitled to suspend, or otherwise be excused from, performance of any of its obligations under this Agreement.

(b) *Force Majeure Event.* A "Force Majeure Event" is strictly limited to the following:

Any flood, earthquake, failure of any facility not owned by Westside, acts of God (other than drought), governmental or court actions, Reclamation allocations and other events which are beyond the reasonable control of, and have not been caused or contributed to by Westside and whose consequences cannot be avoided by utilizing other water supplies or conveyance facilities reasonably available to Westside at an equivalent cost. Neither drought nor unavailability of water resulting from drought shall result in cancellation or permanent reduction of water available under this contract.

(c) *Make-up Water.* Should Westside be unable to deliver the full amount of water ordered by RCWD in any year due to a Force Majeure Event, RCWD shall have the option of obtaining water in the following five (5) years pursuant to the provisions of this Agreement, including paragraph 2 hereof, to make up that shortfall if necessary to meet RCWD's obligations to balance the water usage in RCWD.

15. Events of Default. An "Event of Default" of a party shall be deemed to occur if, unless excused by a Force Majeure Event, the party at any time fails to perform any of its obligations as and when required to be performed under this Agreement, or any representation or warranty of the party made or restated in this Agreement becomes false or inaccurate in any material respect at any time; provided, however, that the other party shall have first demanded in writing that the party cure such non-performance, or false or inaccurate representation or warranty (or cause it to be cured) and the party shall have then failed to (i) cure the default within 30 days after the receipt of such demand in the case of payment obligations, (ii) commence a cure within 30 days after the receipt of such demand in the case of non-payment performance obligations, or (iii) develop within 30 days after the receipt of such demand and thereafter perform a plan to maintain RCWD's five year rolling average groundwater balance in the case of Westside's obligation to deliver water.

16. Rights Upon an Event Default. Upon the occurrence of an Event of Default, the non-defaulting party (a) may suspend performance of its obligations under this Agreement until the Event of Default has been cured or waived, and (b) shall have the following rights and remedies:

(i) *Westside Event of Default.*

Replacement Water Supply

Upon a Westside Event of Default, RCWD shall immediately have the right to (A) specific performance of Westside's obligations under this Agreement and (B) reimbursement of the actually incurred reasonable cost of obtaining water to replace the water requested in an Order that Westside does not deliver ("Replacement Water Supply") less all amounts saved as a result of the Event of Default including all amounts that otherwise would have been due under this Agreement.

Termination of Contract and Replacement Contract

RCWD shall have the right to terminate this Agreement upon its reasonable determination that a material Westside Event of Default has occurred that cannot or will not be cured within a reasonable time. Westside's obligation to reimburse RCWD for a Replacement Water Supply shall thereupon cease and RCWD shall have the right to recover from Westside, immediately upon demand, an amount equal to the excess of (A) the net present value as of the termination date of the reasonable cost of securing equivalent substitute performance from a financially responsible contractor for the balance of the existing Term remaining as of the date of termination, over (B) the net

present value as of the date of termination of all amounts RCWD saved as a result of such termination plus the cost of any water under a Replacement Water Supply to be delivered after the date of termination for which Westside has paid reimbursement.

Sole Remedy

The rights and remedies of RCWD described in this paragraph 16 are RCWD's sole and exclusive remedy for any Event of Default by Westside under, or any inaccuracy in any of Westside's representations and warranties in, this Agreement.

(ii) *RCWD Event of Default.* Upon a RCWD Event of Default, Westside shall immediately have the right to (A) deem any Pre-Delivered Water as ordered to accelerate delivery of any Pre-Delivered Water and payment therefor, (B) specific performance of this Agreement or money damages at the discretion of Westside, (C) payment of any amount that is due and payable by RCWD under this Agreement plus interest at the rate of 10 percent per annum, and/or (D) terminate this Agreement; provided, however, that no delay in termination of this Agreement by Westside shall constitute a waiver of this right. RCWD's obligation to pay any amounts that are due and payable under this Agreement or this paragraph 16 shall survive any termination of this Agreement. The rights and remedies of Westside described in this paragraph 16 shall be cumulative, and are Westside's sole and exclusive remedies for any Event of Default by RCWD under, or any inaccuracy in any of RCWD's representations or warranties in, this Agreement.

17. Dispute Resolution. Upon the request of either party, any dispute claim, or controversy of any kind arising in connection with this Agreement shall be resolved through a two-step dispute resolution process, as follows:

(a) *Step I Mediation:* At the request of either party, the dispute, claim or controversy of the matter shall be referred for mediation to a retired Superior Court Judge, reasonably acceptable to both parties.

(b) *Step II Trial by Court Reference:* If the dispute, claim or controversy has not been resolved by Step I mediation, then any remaining dispute, claim or controversy shall be submitted for determination by a trial on Order of Reference conducted by a single retired Judge appointed pursuant to the provisions of California Code of Civil Procedure Section 638 (or any amendment, addition or successor section thereto). BOTH PARTIES HEREBY WAIVE A JURY TRIAL OR PROCEEDING IN CONNECTION WITH ANY DISPUTE, CLAIM OR CONTROVERSY ARISING IN CONNECTION WITH THIS AGREEMENT. The parties intend this general reference agreement to be specifically enforceable in accordance with CCP Section 638, and no other agreement shall be necessary to submit a dispute to general judicial reference.

(i) The general reference proceeding shall be commenced by a request or motion filed with the Presiding Judge of the

Superior Court of Kings County. If the parties are unable to agree upon a person to act as referee, then a referee shall be appointed by the Presiding Judge as provided under CCP Section 640.

(ii) The parties shall pay in advance, to the referee, the estimated reasonable fees and costs of the reference. Each party shall be responsible for one-half of such estimated fees. The referee shall be authorized to award costs of the general reference, including, without limitation, attorneys' fees, expert witness fees and fees assessed by the referee to the prevailing party.

(iii) The general reference hearing must commence within three (3) months after appointment of the referee. The referee shall report his or her findings to the Court in the form of a statement of decision within twenty (20) days after the close of testimony, pursuant to CCP Section 643. The Court shall enter judgment based upon the statement of decision which shall be appealable.

(c) *Venue.* The parties agree that venue for any mediation or reference held pursuant to this Paragraph shall be the County of Kings, to avoid any undue advantage that might otherwise accrue to RCWD or Westside from a venue located in their respective home counties.

18. Indemnification. Neither party shall be liable for injury or damage to persons or property caused by the other party, or the other party's employees, agents, or representatives. Each party hereby agrees to defend, indemnify, and hold harmless the other party from any claim, demand, or liability on account of such injury or damage.

19. Severability. If any term or provision of this Agreement shall be held to be invalid or unenforceable in any jurisdiction, for any reason, then it is the intention of the parties that this Agreement shall be construed and enforced as if such invalid or unenforceable term or provision had never been a part hereof without invalidating the remaining terms and provisions hereof, and that all of the terms and provisions of this Agreement shall remain in full force and effect without regard to such invalidity or unenforceability.

20. Waiver. The failure by either party to enforce any of the covenants, terms, or conditions of this Agreement shall not be deemed a waiver of such breach, or any future breach, of such covenants, terms, or conditions, unless such waiver shall have been made in writing.

21. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the, successors, and permitted assignees of the parties.

22. Assignment. Except as provided in this Paragraph, neither party shall assign or transfer its rights under this Agreement. RCWD hereby consents to an assignment of the rights and delegation of the obligations of Westside pursuant to this Agreement to a trust or foundation for estate planning purposes, an affiliate entity, North

Kern or SWID. Upon the prior written consent of Westside, which shall not be unreasonably withheld, RCWD may assign its rights to receive water under this Agreement provided that RCWD shall pay all of the costs of environmental review or third party permitting necessary to accomplish the assignment and pay any additional conveyance costs (including, but not limited to conveyance losses) to any alternate point of delivery.

23. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of California.

24. Further Assurances. From time to time and at any time after the execution and delivery hereof, each of the parties, at their own expense, shall execute, acknowledge and deliver any further instruments, documents and other assurances reasonably requested by the other party, and shall take any other action consistent with the terms of this Agreement that may reasonably be requested by another party, to evidence or carry out the intent of this Agreement.

25. Notices. All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of service, if served personally on the person to whom notice is to be given, (ii) on the date of service if sent by e-mail or telecopier, provided the originally is concurrently sent by first class mail, and provided that notices received by email or telecopier after 5:00 p.m. shall be deemed given on the next business day, (iii) on the next business day after deposit with a recognized overnight delivery service, or (iv) on the third (3rd) day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

To Westside: William D. Phillimore, Executive Vice President
Westside Mutual Water Company
33141 E. Lerdo Highway
Bakersfield, California 93308-9767

With a copy to:
Roll International Corporation
Attn: General Counsel
11444 W. Olympic Blvd., 10th Floor
Los Angeles, CA 90064

To RCWD: Philip R. Pierre, President
c/o Christopher L. Campbell, Esq.
Baker, Manock & Jensen
5260 N. Palm Avenue, Suite 421
Fresno, California 93701

or at such other address as any party may, by like notice, designate to the other party in writing.

26. Liquidated Damages. It is not intended that this Agreement contain any provisions providing for liquidated damages. However, in the event that any provision of this Agreement should nevertheless be construed as providing for liquidated damages, then the parties agree that provision is reasonable under the circumstances existing at the time this Agreement is made.

27. References. The Paragraph headings in this Agreement are provided for convenience only, and shall not be considered in the interpretation hereof or thereof. References in this Agreement to Paragraphs refer, unless otherwise specified, to the designated Paragraph of this Agreement. Terms such as "herein," "hereto" and "hereof" refer to this Agreement as a whole.

28. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all of which together shall constitute one and the same instrument.

29. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements or understandings with respect thereto. This Agreement may be modified or amended only by written instrument signed by both parties.

30. Time and Computation of Time. Time is of the essence of this Agreement and each and all of its provisions. The parties agree that the time for performance of any action permitted or required under this Agreement shall be computed as if such action were "an act provided by law" within the meaning of California Civil Code §10, which provides: "The time in which any act provided by law to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded."

31. Parties in Interest. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies on any persons other than the parties hereto and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third person any right of subrogation or action over and against any party to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date first above written.

"RCWD"

ROOT CREEK WATER DISTRICT,
a California water district

By


Philip R. Pierre, President

"Westside"

WESTSIDE MUTUAL WATER COMPANY LLC,
a California limited liability company

By


Joseph C. MacIlvaine, President

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Exhibit "A"
Maximum Delivery Quantities and Standby Charges

Period after Commencement Date	Maximum Delivery Quantity
Years 1-4	3,500 af/year
Years 5-9	5,000 af/year
Years 10+	7,000 af/year

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WATER EXCHANGE AGREEMENT

(Westside Mutual – Shafter Wasco Irrigation District)

THIS AGREEMENT (the or this “Agreement”) is executed in quadruplicate as of the Commencement Date by and between WESTSIDE MUTUAL WATER COMPANY, LLC (“Westside”), SHAFTER-WASCO IRRIGATION DISTRICT (“SWID”), MADERA IRRIGATION DISTRICT (“MID”), and ROOT CREEK WATER DISTRICT (“RCWD”).

WITNESSETH:

WHEREAS, Westside and its members have certain rights to groundwater banked in storage accounts within North Kern¹ and may hereafter bank additional water in storage accounts within North Kern; and

WHEREAS, Westside desires to extract its groundwater banked in storage accounts within North Kern for delivery to SWID which will, in turn, release to MID a like amount of surface water in Friant for delivery to RCWD at its turnout on the MID 6.2 Lateral; and

WHEREAS, Westside and SWID intend that the exchange provided in this Agreement shall be deemed a delivery of Westside’s groundwater banked in storage accounts within North Kern to RCWD in Madera County by exchange for SWID’s Friant surface water;

WHEREAS, RCWD and MID entered into that certain Agreement for the Conveyance and Sale of Water dated March 13, 2002, (the “2002 Agreement”) that, among other things, provides the terms for MID’s conveyance of water to the RCWD Turnout.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

ARTICLE I DEFINITIONS

1.00. AF.

“AF” means acre feet.

1.01. CEQA.

“CEQA” means the California Environmental Quality Act.

¹ The term “North Kern” and other words and phrases are defined in Article I hereof.

1.02. Commencement Date.

“Commencement Date” means January 1, 2009.

1.03. Force Majeure Event.

“Force Majeure Event” means any of the following:

(a) Adverse impacts (other than de minimus impacts) to SWID’s operations, water supply or costs with respect to deliveries which cannot be reasonably mitigated.

(b) Any flood, earthquake, failure of any facility not owned by Westside, acts of God (other than drought), governmental or court actions, Reclamation allocations and other events which are beyond the reasonable control of, and have not been caused or contributed to by the parties hereto.

1.04. Friant.

“Friant” means the Friant Division of the Central Valley Project.

1.05. Maximum Delivery Quantity.

“Maximum Delivery Quantity” means for a particular Year the following amount of water expressed in AF:

<u>Year After Commencement Date</u>	<u>Maximum Delivery Quantity</u>
Years 1 – 4	3,500
Years 5 – 9	5,000
Years 10 +	7,000

Because the Commencement Date is January 1, 2009, Year 1 is Year 2009, Year 5 is Year 2013 and Year 10 is Year 2018.

1.06. MID.

“MID” means MADERA IRRIGATION DISTRICT, a California irrigation District.

1.07. North Kern.

“North Kern” means NORTH KERN WATER STORAGE DISTRICT, a California water storage district.

1.08. Point of Delivery.

“Point of Delivery” means SWID’s northern Intake Canal or southern intake (through a connection with North Kern facilities) from the Friant Kern Canal for deliveries to SWID.

1.09. Reclamation.

“Reclamation” means the United States Bureau of Reclamation.

1.10. Root Creek.

“RCWD” means ROOT CREEK WATER DISTRICT, a California water district.

1.11. RCWD Turnout.

“RCWD Turnout” means the new turnout and meter to be constructed by RCWD in the general location of the intersection of the Road 40 alignment and the MID Lateral 6.2 from the Madera Canal.

1.12. SWID.

“SWID” means SHAFTER-WASCO IRRIGATION DISTRICT, a California irrigation district.

1.13. Westside.

“Westside” means WESTSIDE MUTUAL WATER COMPANY, a California limited liability company.

1.14. Year.

“Year” means a calendar year commencing January 1 and ending December 31.

ARTICLE II EXCHANGE

2.00. Delivery of Water to SWID.

Westside shall have the right, but not the obligation, to deliver the Maximum Delivery Quantity to SWID at the Point of Delivery during the period April 1 through October 31 of each Year. The water so delivered by Westside to SWID may, at the sole discretion of Westside, be either (a) groundwater banked within North Kern or (b) Westside surface water delivered using North Kern conveyance facilities. Westside shall use its reasonable efforts to deliver any water to SWID according to a schedule

acceptable to SWID at times and to the extent SWID then has demands within the system into which such water is delivered. Westside shall not be obligated to deliver more than 17 cubic feet per second of water to SWID at any time.

2.01. Transfer of Friant Surface Water to Westside.

For each acre foot of water delivered by Westside to SWID at the Point of Delivery, SWID shall request the simultaneous transfer to MID, for the benefit of Westside, of one acre foot of SWID's Friant water which MID shall deliver to RCWD at the RCWD Turnout. MID shall accept the water transferred by SWID to MID and shall deliver that water less losses incurred in the Madera Canal and MID Lateral 6.2 to RCWD at the RCWD Turnout. Westside shall be responsible for providing sufficient water to SWID so that following the exchange to MID and the losses incurred in the Madera Canal or the MID Lateral 6.2, MID will be able to deliver the amount of water Westside desires to deliver to RCWD. Neither SWID nor MID will be responsible for any losses in the Madera Canal or the MID Lateral 6.2 or otherwise. All losses shall be borne by Westside and determined under the 2002 Agreement which provides for (a) no losses in the Madera Canal, (b) measurement of the delivered water at the Madera Canal outflow structure into MID Lateral 6.2 and no calculation of losses if the only water conveyed in Lateral 6.2 is that being delivered to RCWD, and (c) losses of 3 percent in MID Lateral 6.2 if there is water in Lateral 6.2 in addition to that being delivered to RCWD. Deliveries by MID to RCWD shall be strictly pursuant to the terms of the 2002 Agreement, including but not limited to, scheduling, pricing, computation of losses, measurement and priority.

2.02. Point of Measurement.

All water delivered to SWID under this Agreement shall be metered at the Point of Delivery by SWID.

All water delivered to RCWD under this Agreement shall be metered at the RCWD Turnout.

ARTICLE III GENERAL PROVISIONS

3.00. Term.

The term of this Agreement shall be 26 years from and after the Commencement Date. This Agreement may be extended upon the mutual agreement of parties hereto.

3.01. Conditions Precedent.

The following are conditions precedent to the parties' performance under this Agreement:

(a) Reclamation Findings.

Reclamation shall (1) approve the exchange set forth in this Agreement and (2) provide written confirmation that SWID's Friant water exchanged for Westside's banked groundwater in North Kern shall be considered "non-project" water when delivered to RCWD. RCWD shall bear all costs to obtain the approval and confirmations set forth in this subsection 3.01(a).

(b) CEQA Compliance.

RCWD, MID and SWID shall complete their environmental review as required by the CEQA for the actions contemplated by this Agreement, and the time period to appeal the approval by RCWD, MID and SWID of any CEQA document shall have expired.

(c) Approvals.

All necessary approvals or consents from any governmental agency for the actions contemplated by this Agreement shall be received.

3.02. Assignment.

Westside may assign its rights and delegate its obligations under this Agreement, and SWID hereby consents to such assignment and delegation, to (a) RCWD, (b) North Kern, (c) an entity affiliated with Westside, or a trust or foundation for estate planning purposes of the owner(s) of Westside (or its members), provided, however, such affiliate, trust or foundation is substantially capable of performing the obligations under this Agreement as Westside. Except as expressly allowed in this section 3.02, no party shall assign or transfer this Agreement or any right or interest herein or hereunder, or suffer or permit any such assignment or transfer to occur by operation of law without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld. Subject to the foregoing, this Agreement shall be binding upon the successors and assigns of the respective parties hereto.

3.03. Force Majeure.

Performance under this Agreement by all parties may be suspended upon the occurrence of a Force Majeure Event which causes the affected party to be unable to substantially perform its obligations hereunder; provided, however, that no suspension shall extend the term of this Agreement. The affected party shall provide the other party written notice of the estimated duration of the suspension of performance and basis for the suspension prior to the suspension, if possible, and in no event less than one business day following the suspension. The affected party shall thereafter provide the other party with any information obtained regarding the Force Majeure Event and any information reasonably requested. Westside shall have 60 days from receipt of written notice of a

Force Majeure Event adversely impacting SWID to mitigate the impact to the reasonable satisfaction of SWID.

3.04. Reduction of Maximum Delivery Quantity.

The Maximum Delivery Quantity for all purposes under this Agreement shall be reduced in any Year when the SWID allocation of Class 1 water from Reclamation falls below 22,000 AF. The Maximum Delivery Quantity in such a Year, and only for that Year, shall be redetermined to be an amount equal to the Maximum Delivery Quantity multiplied by a fraction the numerator of which is SWID's allocation of Class 1 water from Reclamation and the denominator of which is 22,000.

3.05 Notices.

All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of service, if served personally on the person to whom notice is to be given, (b) on the date of service if sent by e-mail or telecopier, provided the original is concurrently sent by first class mail, and provided that notices received by email or telecopier after 5:00 p.m. shall be deemed given on the next business day, (c) on the next business day after deposit with a recognized overnight delivery service, or (d) on the third day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

To Westside: William D. Phillimore, Executive Vice President
Westside Mutual Water Company
33141 E. Lerdo Highway
Bakersfield, California 93308-9767

With a copy to:
Roll International Corporation
Attn: General Counsel
11444 W. Olympic Blvd., 10th Floor
Los Angeles, CA 90064

To SWID: General Manager
P.O. Box 1168
Wasco, CA 93280

To RCWD: Philip R. Pierre, President
c/o Christopher L. Campbell, Esq.
Baker, Manock & Jensen
5260 N. Palm Avenue, Suite 421
Fresno, CA 93701

To MID: General Manager
12152 Road 281/4

Madera, CA 93637

or at such other address as any party may, by like notice, designate to the other parties in writing; provided, however, that any notice given under section 3.04 hereof shall comply with the additional notice requirements of that section.

ARTICLE IV INTERPRETATION OF AGREEMENT

4.00. Introduction.

The rules of interpretation contained in this Article IV shall govern the interpretation of this Agreement.

4.01. Definitions.

The words and phrases defined in Article I hereof shall govern the interpretation of this Agreement.

4.02. Applicable Law.

The laws of the State of California without regard to conflict of law principles shall govern the interpretation of this Agreement.

4.03. Amendment of Agreement.

This Agreement may not be modified, changed, altered, amended, or otherwise revised except by a duly executed written amendment.

4.04. Statutory Rules of Interpretation.

Any rule of interpretation that in ambiguity is to be resolved against the drafting party shall not be employed in the interpretation of this Agreement, any exhibits hereto, or any amendments hereof, and neither Civil Code section 1654, nor any similar law shall be applied to resolve any ambiguity in this Agreement.

4.05. Opinions and Determinations.

Except as may be otherwise provided in this Agreement, or any term of this Agreement provides for action to be passed on the opinion, judgment, approval, consent, review, certification, or determination of a party, such terms shall not be construed as permitting the opinion, judgment, approval, consent, review, certification, or determination to be arbitrary, capricious or unreasonable.

4.06. Waiver.

The waiver of any party hereto of any right with respect to a default or any other matter arising under this Agreement shall not constitute or be construed as constituting a waiver with respect to any other default or matter.

4.07. Remedies not Exclusive.

Except as otherwise provided in this Agreement, the application by any party hereto of any remedy provided in this Agreement for the enforcement of this Agreement is not exclusive and shall not deprive such party of, or limit the application of, any other remedy provided by law, in equity, or otherwise.


4.08. Captions.

The captions, articles and sections of this Agreement do not define the scope, meaning or intent of this Agreement.

IN WITNESS WHEREOF, WESTSIDE, SWID, MID and RCWD have caused this Agreement to be executed as of the effective date.


WESTSIDE MUTUAL
WATER COMPANY, LLC

SHAFTER-WASCO
IRRIGATION DISTRICT

By 
Name: **William D. Phillimore**
Title: **Executive Vice President**

"Westside"


By _____
Name:
Title:

By 
Name:
Title: **General Manager**

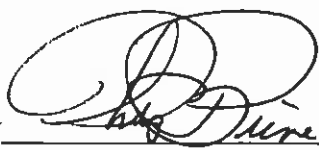
"SWID"

MADERA IRRIGATION DISTRICT

ROOT CREEK WATER DISTRICT

By 
Name:
Title: **President**

"MID"

By 
Name: Philip R. Pierre
Title: President

"RCWD"

Attachment 7.4, Groundwater Pumping Costs

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Root Creek Water District
In-Lieu Groundwater Recharge Project
Groundwater Pumping Costs

Energy to lift 1 AF/1 ft	1.46	kWh	(see Note 1)
Cost of Energy	\$0.10	/KW-hr	

Groundwater Depth	300	ft	(see Note 2)
Pumping Drawdown	75	ft	
Total Water Depth	375	ft	

Total Energy Cost	\$55	/AF
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Notes

1) Assumes 70% equipment efficiency. Source: University of California Cooperative Extension, Tulare County, Energy and Cost Required to Lift or Pressurize Water, 1998

2) Groundwater depth based on the greatest depth to groundwater in the project area according to a Groundwater Contour Map prepared by RCWD in Fall 2009

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Attachment 7.4, Hydrologic Simulation

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**ROOT CREEK WATER DISTRICT
IN-LIEU GROUNDWATER RECHARGE FACILITIES PROJECT
FEASIBILITY STUDY**

**Section 215 and Class II Waters used by Project
(Acre-Feet)**

Year in Simulation	Calendar Year	Percent Water Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTAL
Project Limitations			Conveyance max 3,069 AF Ag Demand 0 AF	Conveyance max 2,772 AF Ag Demand 0 AF	Conveyance max 3,069 AF Ag Demand 312 AF	Conveyance max 2,970 AF Ag Demand 832 AF	Conveyance max 1,535 AF Ag Demand 1,547 AF	Ag Demand 2,074 AF Conveyance max 1,485 AF	Ag Demand 2,293 AF Conveyance max 1,535 AF	Ag Demand 2,026 AF Conveyance max 1,535 AF	Conveyance max 2,970 AF Ag Demand 1,349 AF	Conveyance max 3,069 AF Ag Demand 642 AF	Conveyance max 2,970 AF Ag Demand 137 AF	Conveyance max 3,069 AF Ag Demand 0 AF	
1	1953		0	0	312	832	62	0	0	1,264	1,349	642	137	0	4,598
2	1954		0	0	0	452	1,547	0	0	0	0	0	137	0	2,136
3	1955		0	0	0	0	0	0	0	0	0	0	0	0	0
4	1956		0	0	312	832	1,547	1,485	0	0	1,349	642	137	0	6,304
5	1957		0	0	0	0	0	1,460	0	0	0	0	0	0	1,460
6	1958		0	0	312	832	1,547	1,485	1,535	0	0	0	0	0	5,711
7	1959		0	0	0	0	0	0	0	0	0	0	0	0	0
8	1960		0	0	0	0	0	0	0	0	0	0	0	0	0
9	1961		0	0	0	0	0	0	0	0	0	0	0	0	0
10	1962		0	0	0	0	0	0	0	0	0	0	0	0	0
11	1963		0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
12	1964		0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
13	1965		0	0	0	0	0	0	0	0	0	0	0	0	0
14	1966	71	0	0	0	0	0	0	0	0	0	0	0	0	0
15	1967	176	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
16	1968	47	0	0	0	0	0	0	0	0	0	0	0	0	0
17	1969	220	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
18	1970	79	0	0	0	0	0	0	0	0	0	0	0	0	0
19	1971	77	0	0	0	0	0	0	0	0	0	0	0	0	0
20	1972	57	0	0	0	0	0	0	0	0	0	0	0	0	0
21	1973	112	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
22	1974	119	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
23	1975	98	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
24	1976	34	0	0	0	0	0	0	0	0	0	0	0	0	0
25	1977	20	0	0	0	0	0	0	0	0	0	0	0	0	0
26	1978	185	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
27	1979	100	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
28	1980	162	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
29	1981	58	0	0	0	0	0	0	0	0	0	0	0	0	0
30	1982	181	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
31	1983	253	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
32	1984	111	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
33	1985	70	0	0	0	0	0	0	0	0	0	0	0	0	0
34	1986	151	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
35	1987	42	0	0	0	0	0	0	0	0	0	0	0	0	0
36	1988	47	0	0	0	0	0	0	0	0	0	0	0	0	0
37	1989	52	0	0	0	0	0	0	0	0	0	0	0	0	0
38	1990	40	0	0	0	0	0	0	0	0	0	0	0	0	0
39	1991	66	0	0	0	0	0	0	0	0	0	0	0	0	0
40	1992	46	0	0	0	0	0	0	0	0	0	0	0	0	0
41	1993	150	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
42	1994	50	0	0	0	0	0	0	0	0	0	0	0	0	0
43	1995	218	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
44	1996	124	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
45	1997	158	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
46	1998	178	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
47	1999	150	0	0	312	832	1,547	1,485	1,535	1,535	1,349	642	137	0	9,374
48	2000	103	0	0	312	0	0	1,485	0	0	0	0	0	0	1,797
49	2001	60	0	0	0	0	0	0	0	0	0	0	0	0	0
50	2002		0	0	0	0	0	0	0	0	0	0	0	0	0
Monthly Annual Average			0	0	150	392	713	712	645	639	594	282	63	0	
%			0%	0%	4%	9%	17%	17%	15%	15%	14%	7%	2%	0%	209,486
AVERAGE ANNUAL=															4,190

=Section 215 Water
 =Class II Water
 =Combination of both

Average Annual Section 215 Deliveries = 2,100 AF
 Average Annual Class II Water Deliveries = 2,300 AF

Notes:

- 1 In April 1963, 562 AF of Section 215 was available
- 2 In May 1963, 403 AF of Section 215 was available
- 4 Maximum capacity through Lateral 6.2 is 25 cfs per day per month, May 1 to August 31 of each year, and 50 cfs per day per month, from September 1 of each year until April 30 of the following year.
- 5 Losses are calculated as 3% of delivery through the Madera Canal and Lateral 6.2 to be measured at Turnout 1-A.
- 6 Allocation based on a CVP water year of March to February.
- 7 The period of 1995 through present is heavily affected by the introduction of early season water.

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Attachment 7.4, Avoided Groundwater Banking Costs & Graph

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**Root Creek Water District
In-Lieu Groundwater Recharge Project
Avoided Project Costs - Groundwater Banks**

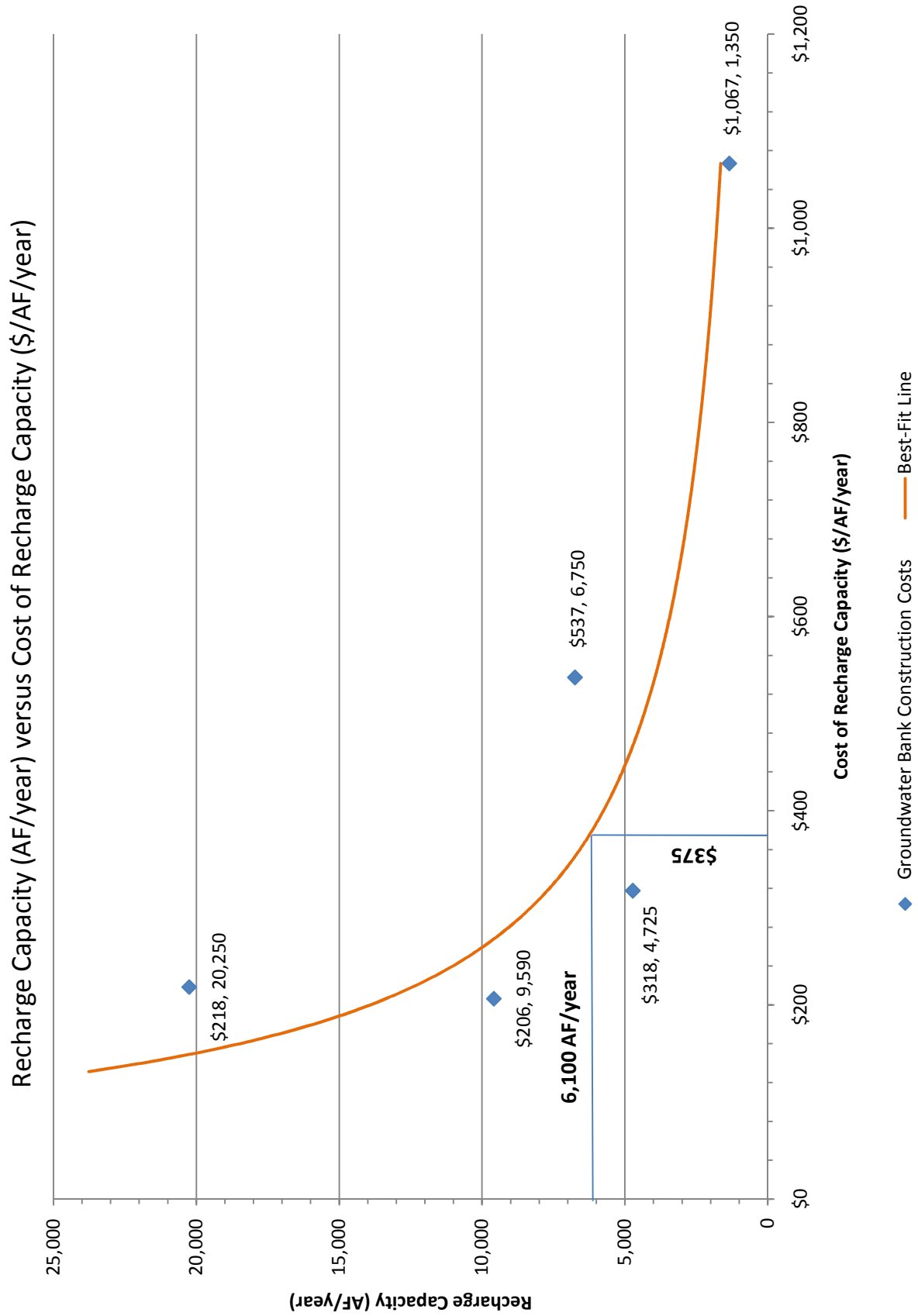
No.	Project Name	Location	Year Constructed	Net Recharge Acreage (acres)	Infiltration Rate (ft/day)	Assumed No. of Recharge Days ¹	Anticipated Recharge per Year (AF)	Original Project Cost ²	Escalation Factor ³	Escalated Project Cost	Cost per AF of Recharge Capacity
1	Jameson Pond	Fresno Irrigation District, Fresno Co.	2010	50	0.5	270	6,750	\$ 3,626,510	1.00	\$ 3,626,510	\$537
2	Waldron Pond	Fresno Irrigation District, Fresno Co.	2007	150	0.5	270	20,250	\$ 4,250,000	1.04	\$ 4,420,000	\$218
3	Empire Pond	Fresno Irrigation District, Fresno Co.	2007	20	0.25	270	1,350	\$ 1,384,600	1.04	\$ 1,439,984	\$1,067
4	Lambrecht Pond	Fresno Irrigation District, Fresno Co.	2007	35	0.5	270	4,725	\$ 1,442,700	1.04	\$ 1,500,408	\$318
5	Lateral K Basin	James Irrigation District, Fresno Co.	2004	222	0.16	270	9,590	\$ 1,751,000	1.13	\$ 1,978,630	\$206

Notes:

- 1 - The assumed number of recharge days, 270, is the same as the potential number of delivery days for Class II and Section 215 water at the project site. It will also allow three months to perform maintenance on conveyance and recharge facilities, and allow recharge basins to dry out to enhance infiltration capacity.
- 2 - Costs do not include recovery wells. This is a suitable comparison since a water bank in Root Creek Water District would use existing grower wells to retrieve water.
- 3 - Escalation factors based on values provided in the Proposal Solicitation Package to bring costs to 2009 levels.
- 4 - Maintenance costs are assumed to be 1% of the total capital costs per year.
- 5 - Operation costs will be the cost to pump the recharged groundwater. These costs were estimated to be \$55/AF.

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Avoided Costs - Groundwater Bank Construction



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